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STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD  
BOARD MEETING

JOE SERNA JR., CAL EPA BUILDING  
CENTRAL VALLEY AUDITORIUM  
1001 I STREET, SECOND FLOOR  
SACRAMENTO, CALIFORNIA

WEDNESDAY, NOVEMBER 14, 2001

9:35 A.M.

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A P P E A R A N C E S

BOARD MEMBERS PRESENT:

LINDA MOULTON-PATTERSON, Chair

DAN EATON

STEVEN R. JONES

JOSE MEDINA

MICHAEL PAPARIAN

DAVID A. ROBERTI

STAFF PRESENT:

KATHRYN TOBIAS, Chief Legal Counsel

MARK LEARY, Executive Director

YVONNE VILLA, Board Secretary

PEGGY FARRELL, Acting Board Administrative Assistant

SELMA LINDRUD, Acting Board Administrative Assistant

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1 P R O C E E D I N G S

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3 BOARD CHAIR MOULTON-PATTERSON: Good morning,  
4 and welcome back to the second day of our November Board  
5 meeting.

6 As we stated yesterday, we will be starting out  
7 with item twenty and finishing out our agenda today. And  
8 a reminder that item fifteen is at 11:00 a.m. time  
9 certain.

10 And let's begin with the pledging of allegiance  
11 to the flag.

12 (Thereupon the Pledge of Allegiance was said.)

13 BOARD CHAIR MOULTON-PATTERSON: Thank you very  
14 much.

15 Please call the roll.

16 BOARD SECRETARY VILLA: Eaton.

17 BOARD MEMBER EATON: Here.

18 BOARD SECRETARY VILLA: Jones.

19 BOARD MEMBER JONES: Here.

20 BOARD SECRETARY VILLA: Medina.

21 BOARD MEMBER MEDINA: Present.

22 BOARD SECRETARY VILLA: Paparian.

23 BOARD MEMBER PAPARIAN: Here.

24 BOARD SECRETARY VILLA: Roberti.

25 (Not present.)

1 BOARD SECRETARY VILLA: Moulton-Patterson.

2 BOARD CHAIR MOULTON-PATTERSON: Here.

3 Also, I'd like to remind you to please turn off  
4 your cell phones and pagers.

5 And we have speaker slips in the back if you'd  
6 like to speak on an agenda item. And Ms. Villa over here  
7 will be happy to take them and let us know of your wishes  
8 to speak.

9 We're starting out today, as I said yesterday, I  
10 announced that this is "America Recycles" week, and  
11 tomorrow I guess is actually "America Recycles Day."

12 So Carroll Mortensen, I'd like to turn it over to  
13 you.

14 MS. MORTENSEN: Thank you, Madam Chair and Board  
15 members, Carroll Mortensen from the Legislative Affairs  
16 office.

17 And as you know, "America Recycles Day" is a  
18 nationwide effort to encourage and support recycling  
19 efforts by individuals and communities. What starts out  
20 as an individual decision to recycle builds into a coast  
21 to coast movement that ultimately makes our country a  
22 cleaner, more efficient, and more sustainable place to  
23 live.

24 In celebration of "America Recycles Day,"  
25 everybody is invited to pledge to buy recycled, recycle

1 more, and support a local recycling event tomorrow on  
2 November 15th.

3 As you know, Californians participated in  
4 "America Recycles Day" since it first became a national  
5 event in 1997. Cities and counties throughout the state  
6 have organized a wide variety of events from recycling  
7 collections to art contests to recycled products fairs  
8 and more.

9 The "Buy Recycled" theme of the campaign helped  
10 people to understand that recycling is not complete until  
11 we make the commitment to close the loop and buy and use  
12 recycled content products.

13 Millions of California residents have taken  
14 parts in the events, and thousands of people have pledge  
15 their efforts to increase our efforts to reduce, reuse,  
16 recycle, and buy recycled.

17 At this time I'd like to introduce Mr. Randy  
18 Pester from Senator Sher's office who would like to  
19 present to Chairwoman Moulton-Patterson, on behalf of the  
20 Senate Environmental Committee and Senator Sher, a  
21 resolution acknowledging "America Recycles Day" and  
22 thanking the Chair and the Board for their efforts on  
23 this day.

24 (Thereupon there was a brief presentation.)

25 BOARD CHAIR MOULTON-PATTERSON: Thank you so



1 much, and thank Senator Sher. A very beautiful  
2 resolution and we're really proud of this. Thank you so  
3 much.

4 I almost forgot to ask about ex-partes.  
5 Mr. Eaton?

6 BOARD MEMBER EATON: I'm up to date, thank you,  
7 Madam Chair.

8 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

9 BOARD MEMBER JONES: Let's see. Paul Relis,  
10 Gary Matranga, Therom, Chuck Helgut, Charlotte Gadean,  
11 and Jim Briscoe.

12 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

13 BOARD MEMBER MEDINA: None to report at this  
14 time.

15 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

16 BOARD MEMBER PAPARIAN: Yeah, Michael Bird from  
17 Total Tire Recycling regarding the grants item.

18 Therom Roschen and Chuck Helgut regarding the  
19 Sacramento RAC center.

20 And then yesterday Dominic Demarco after the  
21 strategic plan item regarding the strategic plan.

22 And also Skip Lacase of San Jose regarding the  
23 same item.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
25 Paparian.

1                   And I'm up to date.

2                   BOARD CHAIR MOULTON-PATTERSON: Mr. Leary, were  
3                   there any changes or anything you needed to report before  
4                   we get started on our regular agenda?

5                   EXECUTIVE DIRECTOR LEARY: No, thank you, Madam  
6                   Chair.

7                   BOARD CHAIR MOULTON-PATTERSON: Thank you. Well  
8                   then we'll move straight to Ms. Gildart for item number  
9                   twenty, special waste.

10                  Good morning.

11                  MS. GILDART: Good morning, Chair and members,  
12                  Martha Gildart with the Special Waste Division.

13                  Item number twenty is consideration of approval  
14                  for the scope of work for the Northern California  
15                  Rubberized Asphalt Concrete Technology Center contract  
16                  for fiscal year 2001 and two, and fiscal year 2002,  
17                  three. This is under the approval of the five year plan,  
18                  the allocation of funds.

19                  The Northern California RAC center started its  
20                  operations with the Board in the '99-2000 fiscal year  
21                  when the Board awarded \$320,000 for them to carry out  
22                  outreach and training activities, consultation and  
23                  education, and establishing a website with information on  
24                  the use and application of rubberized asphalt concrete.

25                  The county has also been instrumental in

1 developing a guidelines document in consultation with  
2 Caltrans and members of the industry, which is to be  
3 published shortly and distributed statewide, and perhaps  
4 even nationwide.

5           They have placed -- they have recycled over  
6 480,000 tires under the agreement with the Board, and  
7 have increased the use of rubberized asphalt in  
8 Sacramento County.

9           The current proposal is for \$250,000 from each  
10 of two fiscal years, 2001-2002 and 2002-2003, to continue  
11 the same activities; the training, education, and  
12 outreach; maintaining the website; and also to conduct a  
13 possible choice of research projects which are listed in  
14 the scope of work in this item.

15           They have proposed ten potential research  
16 projects to be approved by Board staff as funds are  
17 available. If any of those specific research projects  
18 are of particular interest to the Board we might consider  
19 additional funding.

20           At this time staff recommends approval of the  
21 scope of work.

22           And Therom Roschen with the Sacramento County  
23 Department of Transportation and who has been heading up  
24 this activity for the county is here to describe any  
25 activities or answer any questions if you so wish.

1               There is also a handout being circulated now  
2   that lists some of the projects and activities that the  
3   county has undertaken in the last year and a half.

4               BOARD CHAIR MOULTON-PATTERSON: Thank you.  
5   Questions?

6               Mr. Paparian.

7               BOARD MEMBER PAPARIAN: I'll wait for the  
8   presentations.

9               BOARD CHAIR MOULTON-PATTERSON: Oh, okay.

10              MR. ROSCHEN: Good morning, Therom Roschen with  
11   Sacramento County Department of Transportation and your  
12   manager for the Northern California RAC Technology  
13   Center.

14              Some of the highlights have already been covered  
15   in the presentation, but I wanted to bring up a few other  
16   ones.

17              I think the biggest effort is the development of  
18   the design and construction guideline that was primarily  
19   prepared by Dr. Gary Hicks of Oregon State University,  
20   but in consultation with the Caltrans lab and the Federal  
21   Highway Administration.

22              And as was mentioned, that the publication of  
23   that will be forthcoming hopefully around the first of  
24   the year. And we plan on doing a nationwide distribution  
25   for, through the American Public Works Association, but

1 then more focused in California through the County  
2 Engineers Association, League of Cities, that kind of  
3 thing.

4           It's very difficult to measure how many tons of  
5 asphalt rubble were placed as a result of my outreach  
6 efforts. But I've met with 25 separate jurisdictions  
7 since the inception of this program. Those are either in  
8 workshop formats, individual meetings, site visits,  
9 really government talking to government trying to provide  
10 them the technical wherewithal to try their first  
11 project.

12           And what's important here is that governments  
13 are very cautious, they move very slowly, and so this  
14 48,000 tire is really need money. As these projects have  
15 been laid down and they start to observe the performance  
16 of the asphalt rubber, it's my hope that that will grow  
17 many-fold, and they'll start to incorporate that into  
18 their tool kit of normal maintenance practices.

19           Another highlight is a workshop that we  
20 conducted down in Oakland where we had such an interest  
21 we had to add a second day. We had over 200 attendees at  
22 that workshop, and a large majority of 'em were Caltrans  
23 engineers, and that's the big dog in California market in  
24 terms of placing asphalt rubber.

25           And I don't know if I can take credit for it,

1 but I have seen a trend of increased use by Caltrans in  
2 the asphalt rubber placement.

3           Some other things is attendance at conferences,  
4 League of Cities, the County Engineers Association,  
5 recycled trade shows that I attend. And then keeping  
6 current with the technology, meeting with the Asphalt  
7 Rubber Pavements Association, and they have a technology  
8 transfer group where they bring in experts from all over  
9 the nation, and we meet on a regular basis just to keep  
10 current with the technology.

11           Another threat to the product came up late this  
12 season where asphalt rubber was being produced at a  
13 couple of Bay Area asphalt plants, and the Air Resources  
14 District was blaming the product for increased smoke  
15 production as opposed to the plant's capabilities itself.

16           And so we quickly put together a contract to  
17 conduct some air resources monitoring when asphalt rubber  
18 was being produced at plants that have greater  
19 technology, and so that, the results of that study should  
20 be out very shortly. Again. We don't want the product  
21 to be blamed for it if the plant is just an old, smoky  
22 plant.

23           The next phase of our contract still has the  
24 outreach efforts associated with it, but it's moving into  
25 a different phase of trying to provide the scientific

1 data associated with use of this product.

2 And again I think the main audience here is the  
3 California Department of Transportation. If we can  
4 provide them with the science and technology that has  
5 been done with conventional asphalt, I think their  
6 comfort level will be raised.

7 Another threat is the product known as terminal  
8 blend asphalt rubber. It uses about two-thirds less  
9 recycled tires in the product, and yet it's being passed  
10 off as an equal product. And so a lot of the studies  
11 that are in this next phase go toward comparing the  
12 benefits of those too, and again trying to maximize the  
13 recycled tire use.

14 So with that, if there's any questions I'll be  
15 happy to answer 'em.

16 BOARD CHAIR MOULTON-PATTERSON: Any questions of  
17 Mr. Roschen.

18 BOARD MEMBER EATON: I have a couple of  
19 questions.

20 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton.

21 BOARD MEMBER EATON: First just a general  
22 comment about this item and the next item that are coming  
23 up. I would like to be able to request some sort of  
24 written status report prior to taking up these contracts  
25 so that we get an idea of what's been going on.

1           I think the, Southern California in the past  
2   have provided us a very extensive recap of the issues, so  
3   if we could do that that would be helpful. It will also  
4   save us a lot of time when we have to justify what our  
5   progress has been with regard to some of the marketing.

6           I just have a couple of questions. I'm a little  
7   concerned that you're dealing with the State Department  
8   of Transportation and Caltrans so exclusively, because  
9   the whole idea of these grants was to really work with  
10   local governments. And I know there's a lot of state  
11   highway systems, but it really is getting the  
12   municipalities. And if you remember, when this program  
13   first took off there was talk about us purchasing a key  
14   piece of equipment.

15           MR. ROSCHEN: Yes.

16           BOARD MEMBER EATON: And so I have some concerns  
17   that the money is going to a local government to come  
18   lobby the state, and we can do that as well. And the  
19   whole idea was to get the local government involved with  
20   their regular ongoing maintenance with their streets as  
21   opposed to highways.

22           I mean Caltrans is clearly aware of the  
23   attributes of this kind of paving, especially since we've  
24   funded with them projects on 113 and other strips along.

25           So I'm a little concerned when I hear you say



1     that that's where we're going, because that was not the  
2     idea behind these RAC centers. It was really to get to  
3     the local government level.

4             And more importantly, are there any projects  
5     that deal with, that are ongoing right now that deal with  
6     cold weather? For instance -- are there? Like in Butte  
7     County or Tahoe or any of those?

8             MR. ROSCHEN: Are you referring to the placement  
9     in cold weather or cold weather regions that the  
10    product's been placed?

11            BOARD MEMBER EATON: Cold weather regions.

12            MR. ROSCHEN: Well let me respond to  
13    everything. If I gave you the impression that my focus  
14    has been at the State of California, I apologize. I've  
15    met with over 27 local jurisdictions in our efforts, and  
16    to my knowledge that's resulted in thirteen  
17    jurisdictions, local jurisdictions trying their first  
18    asphalt rubber project. So my focus has been with the  
19    local jurisdictions.

20            However, I'm very mindful that if, under this  
21    program, to really get, gain market share and get this as  
22    a normal practice, most of the jurisdictions follow the  
23    State of California's lead, so I think it is a worthwhile  
24    effort to try to continue working with the state in a  
25    collaborative fashion.

1           So, for example, in the design and construction  
2 guideline, they were at the table with us crafting that  
3 language to make sure that it fits their needs and it  
4 also fits the local jurisdiction's needs.

5           On the terminal, the blender unit, I apologize  
6 if I haven't brought that up to your Board. That was a  
7 valiant concept, I felt. However, there was a lot of  
8 contract issues, industry made a presentation to us that  
9 these blender units are available and that there was a  
10 lot of insurance situations, liability aspects of it, so  
11 we abandoned that program.

12           We also, we did try to bid on two occasions a  
13 joint contract with all area, all jurisdictions in the  
14 Sacramento region, and that did not result in favorable  
15 bids. And so I think there's some market influence that  
16 we received on those bids.

17           As far as an update, I have provided that to  
18 staff, and I hope that was distributed to you.

19           BOARD MEMBER EATON: What percentage of the  
20 County of Sacramento is utilizing rubberized asphalt  
21 currently, percentage of their projects? I know like in  
22 Southern California we have a great deal of, the County  
23 of L.A. and others have already incorporated that in,  
24 what is our host county doing?

25           MR. ROSCHEN: Oh, well we've used the product

1 for ten years and have placed its --

2 BOARD MEMBER EATON: Recently.

3 MR. ROSCHEN: Well we have projects ongoing  
4 right now. I would say in our maintenance program and in  
5 our capital improvements, over 50 percent of our  
6 placements are in asphalt rubber. And in terms of  
7 dollars, that's probably \$17 million annually.

8 You might have read the county parks department  
9 placed over seventeen miles of asphalt rubber on the bike  
10 trail in the American River.

11 We're placing it in our residential  
12 neighborhoods. We're placing it on our major streets.  
13 And one of the big benefits that I'm sharing with all the  
14 communities is the noise reducing aspects of it. And I  
15 think that has a tremendous upside associated with it  
16 where we can't provide a sound wall because of driveway  
17 openings or what have you.

18 BOARD MEMBER EATON: Thank you.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
20 Eaton. Before I go to Mr. Paparian, Senator Roberti, do  
21 you have any ex-parte?

22 BOARD MEMBER ROBERTI: I have no ex-parte,  
23 thank you.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you.

25 Mr. Paparian.

1 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

2 To follow up on some of Mr. Eaton's comments,  
3 and actually some of what I have to say actually relates  
4 to the Southern California center as well.

5 There are, it's very interesting what's going on  
6 with the RAC center, and I think it's something that the  
7 Board obviously is keenly interested in. There's  
8 quarterly reports called for in both items, I think it  
9 would be good if the Board members could all get those  
10 quarterly reports as they come in.

11 MS. GILDART: We could forward them.

12 BOARD MEMBER PAPARIAN: And perhaps an annual  
13 update like this one today about some of the activities  
14 at each of the RAC centers.

15 But more importantly, between this item and the  
16 Southern California item we're proposing to spend a  
17 million dollars on the RAC centers over the next three  
18 years, and possibly up to another million dollars on  
19 grants via the Sacramento or in conjunction with the  
20 Sacramento RAC center if I added those up correctly.

21 I think, you know, given those numbers, given  
22 the level of interest in what the RAC centers are up to,  
23 given some of the questions that Mr. Eaton has raised, I  
24 think it would be appropriate to put together an  
25 independent program evaluation.

1           What I'm thinking is perhaps set aside \$50,000  
2   or so, and come back to us with a scope of work for an  
3   evaluation of the RAC programs to see where we're at and  
4   where we ought to be going. Are we reaching the right  
5   audiences? Are we undertaking the right activities?  
6   What are the outcomes, you know, including numbers of  
7   tires that are recycled and used because of the RAC  
8   efforts. Perhaps other items that would be appropriate  
9   that would come up.

10           But I think given the resources that are going  
11   into these programs and given the importance of these  
12   programs, I think having an evaluation of where we're at  
13   and where we ought to be going would be quite useful.

14           What I'm thinking is something that would come  
15   back to us in a period of maybe twelve to eighteen months  
16   from now, so that before we get into the next round of  
17   funding, presuming that this round is for two years,  
18   before we get into the next round of funding we have this  
19   information available to us.

20           MS. GILDART: I think we could do that. It  
21   might require, if you remember, every spring staff comes  
22   back to the Board with a reallocation item to use up any  
23   dollars that were left from the current budget year's  
24   allocation of the tire fund. Quite often a contract  
25   comes in under bid or a grant program is not fully

1 subscribed. So we return to the Board with those monies  
2 and ask, you know, how they could be distributed.  
3 Sometimes we use them to make whole a grant program that  
4 was oversubscribed.

5 We could reallocate from that effort, maybe  
6 twenty to \$50,000, we'll have to look at what such a  
7 study would require, and have the Board's approval. That  
8 would probably be about the April timeframe that we'd be  
9 coming to you.

10 The reason I'm saying that is the Board voted on  
11 the five year plan, and the monies are allocated under  
12 that plan for specific uses. And without another Board  
13 vote on the budget issues, you know, we can't just direct  
14 the money to such a project.

15 So at the spring reallocation I think is an  
16 opportunity for the Board to do so. And then if we gave  
17 it about a one year period to conduct the study, would  
18 that meet your needs?

19 BOARD MEMBER PAPARIAN: The timing sounds about  
20 right. I mean, I also, I think SB 876 actually called  
21 for, you know, an evaluation, a program evaluation. Mr.  
22 Eaton may be more familiar with that than I am, and I  
23 think the five year plan as well called for some  
24 evaluation of programs.

25 So I think it would be fully consistent with the

1 directions that we wanted in the plan and, you know,  
2 whatever it takes to squeeze the resources to accomplish  
3 this.

4 MS. GILDART: I think it's a mechanical issue  
5 right now. If we were to do an evaluation ourselves,  
6 that would be one thing, we could do it anytime. But to  
7 devote funds from the 876 tire fund to this effort it has  
8 to have some way of fitting into that five year plan.

9 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton.

10 BOARD MEMBER EATON: First off, Ms. Gildart, I  
11 disagree that if you have a five year plan that this  
12 Board has no ability in which to be flexible and change  
13 and redirect monies based upon priorities, so I disagree  
14 with your basic premise.

15 Second and foremost, we would not be taking away  
16 monies from the 876 program, but rather just doing  
17 something that's efficient.

18 So if we withheld 25,000 from each of the  
19 contracts that are going for the purposes that Mr.  
20 Paparian has proposed, that is not only in keeping with  
21 the intent and the purpose of 876, but actually shows a  
22 responsibility on behalf of this Board and its staff that  
23 it is watching the money and that it will get the most  
24 out of it.

25 And I know of no place where any board with a

1 five year plan doesn't have the -- because what happens,  
2 for instance, if our revenues are down? Do we have the  
3 ability then that we don't fund something, that we have  
4 to spend that money when our revenues are not there.

5 The 876 is a plan. It is a plan by which the  
6 Board had voted on. It does not need another vote to  
7 redirect monies into other areas which have a nexus to  
8 the tire fund. And in this case, it's an oversight  
9 function as regards to the marketing of its rubberized  
10 asphalt.

11 So how that not could be within the confines of  
12 either this contract, which we are free to enter into  
13 under the terms we decide to enter into, is beyond me.

14 So I would like an explanation from you how you  
15 see statutorily we are not allowed to redirect monies  
16 within this fund.

17 MS. GILDART: The statute requires that the plan  
18 be updated at least every two years and that any such  
19 changes be resubmitted to the legislature. So certainly  
20 the Board is able to redirect the funds, but my  
21 understanding is that it would then also go to the  
22 legislature for their information.

23 Obviously within the terms of this contract we  
24 could require an evaluation of the program. I'm not sure  
25 if you would want the county to evaluate its own program



1 or if you would want to try and direct a subcontract  
2 through this, is that your wish?

3 BOARD CHAIR MOULTON-PATTERSON: Well let's hear  
4 from everyone before we finalize.

5 Mr. Eaton, had you finished?

6 BOARD MEMBER EATON: No, we'll just make it part  
7 of the contract terms and withhold 25,000, so it would be  
8 225,000, would be the total contract of 250, and withhold  
9 25 from each to go to an independent audit, which would  
10 be in keeping with whatever Mr. Paparian had proposed for  
11 that.

12 But I don't believe -- well, I'll let someone  
13 else speak.

14 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.  
15 Leary.

16 MR. LEARY: Yeah, Madam Chair, maybe I can help  
17 out a little bit here.

18 I would like to suggest that we, I take Board  
19 member Eaton's comments in very good faith and a good  
20 suggestion.

21 What we didn't do when the Board adopted the  
22 five year plan really is talk much extensively how the  
23 five year plan could be modified on a month to month or  
24 year-to-year basis.

25 Obviously, as Martha said, the legislature

1 requires us to come back with an updated five year plan  
2 every two years.

3 Now we've taken, I think the staff has tried to  
4 follow Board's direction in their voting for the five  
5 year plan to implement it as its written.

6 But again, I don't think we had a really  
7 thorough discussion when the Board adopted it, as how we  
8 might move money around within the five year plan, and  
9 does that movement of money within the five year plan  
10 require followup reports to the legislature which I think  
11 Martha touched on briefly.

12 I'm not suggesting we're hesitating in any way  
13 to implement what you're all suggesting in terms of  
14 program evaluation, in fact I concur, I think it is a  
15 great idea, and I think there is program evaluation  
16 concepts built into the five year plan as it's currently  
17 written.

18 I think what we need to do is to just simply  
19 check to make sure that there's money allotted to program  
20 evaluation in some way, shape, or form. And if there  
21 isn't, then is it the Board's wish to bring back a  
22 reallocation item, or we simply move pursuant to your  
23 direction here today to make that happen.

24 And again, I do not hesitate to make the step, I  
25 think it's a great idea.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.

2 Leary.

3 Mr. Jones.

4 BOARD MEMBER JONES: Thank you, Madam Chair. I

5 first off want to say that I think Sacramento County's

6 done a great job in reaching the jurisdictions that it

7 has.

8 MR. ROSCHEN: Thank you.

9 BOARD MEMBER JONES: I worked, I kind of put

10 Therom and Chuck Helgut in a tough situation when I did

11 the allocation and I came up with the idea for the

12 blender. And we did that for the reason that we weren't

13 getting blenders into Northern California, they were all

14 staying in the south. So the people in Northern

15 California were not being able to, were unable to get

16 pricing for rubberized in the north, because the south

17 vendors kept all those machines down there.

18 So when we introduced that as an idea for an

19 allocation, all the sudden the vendors got a little

20 smarter and decided that they would make some of that

21 equipment available. In fact, where they used to tell us

22 they only had two, it turned out they had about ten, and

23 that they'd be having to lay people off if they couldn't

24 bring their machines up.

25 The next thing that Therom and Sac County tried

1 to do, and we all got e-mails on this, was they tried to  
2 put a cooperative together of about fifteen cities to  
3 match it so that they could get a better price by having  
4 a bulk number.

5 The operators or the facilitators or the vendors  
6 decided that they weren't going to give us as much of a  
7 break as they thought they might, so Sac County had to  
8 again adjust the way it was doing business.

9 You know, we can -- I have no problem with doing  
10 the evaluation, Mr. Paparian and I talked about it a  
11 little bit the other day. But it needs to be an  
12 evaluation of statewide programs, and it needs to have at  
13 least eighteen months to let these contracts run their  
14 course and see how they're performing.

15 Because there is, everytime that any of these  
16 vendors, whether it's Sac County or L.A. County, goes in  
17 front of a local Board of Supervisors or they talk with  
18 one of these conferences, they have to get public works,  
19 local public works people interested in the project to  
20 bring 'em back to their city council. And as two of you  
21 know, that city council has to look at that whole picture  
22 of those repairs and how long it could take.

23 And it takes time. It's not something that they  
24 talk about it and then within two months they're in front  
25 of the city council. It may be one time a year when

1 they're talking about their, how that's going to fit in  
2 with lagtak and everything else as to when they're going  
3 to be able to determine what they will be able to do.

4           So I think we need to, in fairness to this  
5 Board, give this the time that it takes, initiate it --  
6 and Mr. Paparian and I talked about this, I mean if it's  
7 a year, if it's eighteen months, we need to have the  
8 information back I think at the end of these two year  
9 contracts, you know, completed. And I'll let others  
10 decide how they want to see that happen.

11           As far as the reallocation of dollars, I've been  
12 on this Board for five years. We've reallocated dollars  
13 at the end of every contract cycle, unspent dollars,  
14 things like that. I prefer to see us look at those  
15 dollars to fund that kind of a study. I think oversight  
16 is clearly within, within what we talked about on 876.

17           So I don't think that's a problem because we,  
18 part of the law was that we were going to continually  
19 reevaluate, that's why we have to give a new plan every  
20 two years to the legislature.

21           But I would rather see us take it out of the  
22 dollars that haven't been expended as opposed to start  
23 taking 25 grand out of every contract that comes along is  
24 just my point of view. Those dollars are going to be  
25 available. I've never sat here where we haven't had a

1 couple of hundred grand to fight about.

2 But I do want to say that Sac County has done a  
3 really good job as far as working with those local  
4 jurisdictions. I've worked with 'em on a lot of issues  
5 with rubberized asphalt paving people.

6 I do have a question about the seven or eight --  
7 I think there's ten, sorry -- the ten potential projects.

8 Have you come up with a, because it is somewhere  
9 between 800 and a million one or something in projects.  
10 Have you thought about how you're going to bring those  
11 forward to the Board? Because every one of these is  
12 going to take more contract dollars.

13 MS. GILDART: This is a case where Sac County  
14 was maybe overly responsive to our requests, and they've  
15 put forward, I think, a very good list of several  
16 projects that would be of value in spreading the, you  
17 know, use of rubberized asphalt.

18 At the time we could pick one or two of those  
19 lower range priced projects to do under the current  
20 funding. If some of the projects that exceed the  
21 contract dollars are of particular interest to Board  
22 members, then once again at the reallocation we could put  
23 more money into those.

24 Another alternative is to seek additional  
25 sources of funding, either through the industry or maybe

1 through partnership with Caltrans.

2 So there are some alternatives on how to fund  
3 those research proposals.

4 BOARD MEMBER JONES: When we were putting that  
5 five year plan together, didn't I bring up the issue that  
6 the doctor from Oregon, Hicks, and some others wanted to  
7 actually do a study that said, is it rubberized asphalt,  
8 is it a terminal blend, is it this, is it that, remember?  
9 And at some point I said we ought to think about funding  
10 that kind of a study that's non-partial, that's  
11 impartial, that could tell us that.

12 I don't know if dollars ever got allocated, but  
13 it seemed to me that dollars got allocated into a  
14 category to look at just that kind of expenditure.  
15 Because we are continually promoting the hot process, and  
16 we need to, for our own benefits, determine from a  
17 scientific standpoint, where's the best value for  
18 California, where's the best value for getting these  
19 tires out. And I think I put something in there and the  
20 Board agreed.

21 MS. GILDART: There's a \$600,000 allocation  
22 under the research budget to enter into a joint agreement  
23 with Caltrans to conduct that study. I think it would be  
24 a simple matter if we wished to use Sacramento County to  
25 do so. We have not brought forward that agreement yet,

1 but there is such funding, 600,000.

2 BOARD MEMBER JONES: Right. So there's some  
3 money there.

4 Thank you.

5 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
6 Jones.

7 Mr. Medina.

8 BOARD MEMBER MEDINA: Thank you, Madam Chair.

9 Early in my tenure as Caltrans director this was  
10 one of the first issues that I had to deal with. And I  
11 had a subsequent meeting with representatives of the  
12 rubberized asphalt industry, and they were concerned in  
13 regard to the drop-off in the use of rubberized asphalt.

14 And so as I looked into this issue I discovered  
15 that, number one, there was a bias, there was a, an  
16 existing bias at Caltrans in favor of using concrete  
17 because a lot of the engineers felt that concrete had  
18 certain advantages. They felt it was longer lasting and  
19 required less maintenance.

20 Another issue had to do with the fact that  
21 Caltrans, through its lab, had developed its own  
22 standards that were not consistent with industry  
23 standards.

24 And so my chief deputy, Jim Roberts, looked into  
25 that, there were some changes made in the lab, because



1 previously Caltrans had worked with industry in setting  
2 the standards for rubberized asphalt.

3           As a result of Jim Roberts' efforts, the, our  
4 laboratory began to work again closely with the  
5 rubberized asphalt industry. There were certain  
6 personnel changes made. Chief deputy Tony Harris, Larry  
7 Orcutt, Randy Osaka were all strong supporters of the use  
8 of rubberized asphalt. In certain districts in the San  
9 Diego area, Gary Gallegos made the most extensive use of  
10 rubberized asphalt.

11           So I take some of the credit for the increased  
12 use of rubberized asphalt at Caltrans.

13           And Caltrans works very closely with local  
14 government, the reason being that at one time Caltrans  
15 received, the state received one hundred percent of the  
16 transportation dollars. And when the change was made,  
17 Caltrans received 25 percent of the transportation  
18 dollars, 75 percent went to local and regional  
19 government. However, local and regional government did  
20 not have the technical expertise that Caltrans did, and  
21 so Caltrans has maintained a close working relationship  
22 with local and regional government.

23           I continue to be, based on what I saw of its  
24 application, rubberized asphalt application in San Diego  
25 area, and increased use in the Los Angeles area, I

1 continue to be a supporter of rubberized asphalt and a  
2 supporter of this program.

3 And I do agree with my Board members that we do  
4 need to have periodic reports. We certainly need to do  
5 evaluation of these. And I had a question in regard to  
6 the scope of work. It does not appear to require the use  
7 of California rubber, and so I'd like to know if there is  
8 a requirement that we use California rubber in the scope  
9 of work.

10 MS. GILDART: This gets into some of the  
11 business issues I think Caltrans has spoken to in the  
12 past. You may be familiar there was a, an incident when  
13 Caltrans had tried to specify California steel in one of  
14 their, I think it was a bridge building project.

15 BOARD MEMBER MEDINA: In three of their bridge  
16 building projects, yes.

17 MS. GILDART: And apparently they were told  
18 they could not make that kind of restriction, it had to  
19 be, you know, follow the low bid process or something.

20 I know that Caltrans is somewhat reluctant to  
21 specify in their projects the source of any of the  
22 materials for their construction.

23 Now the Board when it does grants, we have that  
24 authority within a grant program to specify the use of  
25 California only, you know, rubber. It's possible that

1 with our contract dollars we could specify that, but I'm  
2 not sure if it could go on to, you know, require any  
3 other user. And we could check with our legal department  
4 on that kind of contract and business law.

5 BOARD MEMBER MEDINA: I think that we do need to  
6 do that. I know that there was an issue regarding the  
7 supply of steel locally for those size projects; but that  
8 certain steel that was available locally, you know, you  
9 could give a certain preference. And so I think that we  
10 need to look at this issue in terms of giving preference  
11 to California rubber.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
13 Medina.

14 Mr. Paparian.

15 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

16 I think that there appears to be agreement from  
17 the Board that we should have a program evaluation. The  
18 question is how we should pay for it and when we should  
19 pay for it.

20 I see the options before us basically are to go  
21 with the contract as is and then face some uncertainty of  
22 having the funding available in a reallocation item in  
23 the future; or, as Mr. Eaton suggested, just taking  
24 25,000 off of each contract and setting that money aside.

25 I see a sort of, almost a middle ground of going

1 forward, as Mr. Eaton suggests, of funding these at 225,  
2 then if money is available on reallocation, we could beef  
3 those contracts up to 250 with the reallocation money.

4 So we'd have the certainty of getting the  
5 program evaluation and the probability of getting back up  
6 to 250,000. So --

7 BOARD CHAIR MOULTON-PATTERSON: Would that be  
8 agreeable, Mr. Eaton?

9 BOARD MEMBER EATON: I think that's fine. And  
10 perhaps another reason is I remember in the approved five  
11 year plan we had a pretty large reserve, did we not?  
12 What's that reserve? It was millions of dollars if I'm  
13 not mistaken. Do we have a current accounting of that  
14 reserve?

15 BOARD CHAIR MOULTON-PATTERSON: Ms. Jordan.

16 MS. JORDAN: Yes, Mr. Eaton, we have  
17 approximately \$11 million, but we don't have any  
18 expenditure authority for that money. That's the  
19 particulars in that particular case in respect to the  
20 reserve.

21 We would have to have expenditure authority  
22 through the Department of Finance to be able to use that  
23 reserve money. But there should be adequate funding  
24 within the five year plan dollars.

25 BOARD MEMBER EATON: Yeah, I mean I think we're

1 talking \$50,000 here, I mean, you know.

2 BOARD MEMBER PAPARIAN: Yeah, I mean there's  
3 8.15 million in the market development portion of the  
4 five year plan, and so this is the .05 of the 8.15  
5 million if you want to look at it that way. We also have  
6 1.5 million I think it is for administration, you know.  
7 This would be, again, .05 of the 1.5 if you took it out  
8 of the administration portion. So I'd be surprised if  
9 the money wasn't there.

10 BOARD CHAIR MOULTON-PATTERSON: I think you have  
11 agreement, so if you'd like to make a motion, Mr.  
12 Paparian?

13 MR. ROSCHEN: Point of clarification?

14 BOARD CHAIR MOULTON-PATTERSON: Yes.

15 MR. ROSCHEN: I want to point out the audit  
16 trail. You mentioned that there was a rebate program  
17 through Northern California, that is not the case, that's  
18 the Southern California section.

19 It is very difficult for me to measure what the  
20 benefits of my program are, the outreach efforts. I have  
21 no hammer to get a report back on the use of asphalt  
22 rubber. And I gotta, in all due respect, I gotta be  
23 honest here, if you create kind of a bureaucratic program  
24 here, it will give me pause to look at whether Sacramento  
25 County wants to participate.

1           I have my normal duties, and I try to  
2   incorporate the promotion of asphalt rubber in my normal  
3   duties. And if this becomes a full-time reporting, I  
4   mean admittedly I've been remiss in making report-backs  
5   officially, but I speak almost weekly with the staff.

6           I have no way of tracking what my efforts lead  
7   to in terms of placement short of phone calls that, or  
8   consultations where I ask them.

9           But the Southern California program does have  
10   that rebate program where they have to report in order to  
11   get the rebate. So that's just a clarification.

12           BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
13   Roschen.

14           Ms. Gildart.

15           MS. GILDART: It is possible if we go this route  
16   of hiring a contractor to do the evaluation, that they  
17   might be able to conduct surveys of the local governments  
18   in Northern California to extract that information which  
19   Therom is not able to do himself, that is a possibility.

20           BOARD CHAIR MOULTON-PATTERSON: Thank you.

21           Mr. Paparian.

22           BOARD MEMBER PAPARIAN: Thank you, and just for  
23   clarification it's, what I'm looking for is a program  
24   evaluation, not an audit. I think what you fear is an  
25   audit. This is, this is a broader program evaluation

1     that --

2                 MR. ROSCHEN:   Bang for the buck.   I appreciate  
3     that.

4                 BOARD MEMBER PAPARIAN:   Yeah.   So what I'm  
5     suggesting at this point is that we take this resolution  
6     and the Southern California resolution, make the  
7     allocations \$225,000 in each so that we would have some  
8     certainty of \$50,000 being available for the program  
9     evaluation.

10                And then, if redirected funds do become  
11     available, I would envision backfilling up to the  
12     \$250,000 from the \$225,000 that we would be allocating  
13     today.

14                So in terms of the resolution -- that's the  
15     intent.   In terms of the resolution itself on Resolution  
16     2001-436, I'd like to move that resolution with the  
17     change of \$250,000 being changed to \$225,000.

18                BOARD MEMBER JONES:   Second.

19                BOARD CHAIR MOULTON-PATTERSON:   Okay.   We have a  
20     motion by Mr. Paparian, seconded by Mr. Jones to approve  
21     resolution 2001-436 with the change to 225,000.

22                Please call the roll.

23                BOARD SECRETARY VILLA:   Eaton.

24                BOARD MEMBER EATON:   Aye.

25                BOARD SECRETARY VILLA:   Jones.

1 BOARD MEMBER JONES: Aye.

2 BOARD SECRETARY VILLA: Medina.

3 BOARD MEMBER MEDINA: I'm voting aye but I do  
4 need to, I do feel that we need some sort of  
5 accountability in regards to this.

6 BOARD SECRETARY VILLA: Paparian.

7 BOARD MEMBER PAPARIAN: Aye.

8 BOARD SECRETARY VILLA: Roberti.

9 BOARD MEMBER ROBERTI: Aye.

10 BOARD SECRETARY VILLA: Moulton-Patterson.

11 BOARD CHAIR MOULTON-PATTERSON: Aye. Thank you.

12 MR. ROSCHEN: Thank you.

13 BOARD CHAIR MOULTON-PATTERSON: Item 21, Ms.  
14 Gildart.

15 MS. GILDART: Item 21 is the consideration of  
16 approval of contractor for the Northern California  
17 Rubberized Asphalt Concrete Technology Center contract.

18 That is that the staff is asking the Board to  
19 approve Sacramento County as the contractor to carry out  
20 the duties just enumerated in the scope of work.

21 BOARD CHAIR MOULTON-PATTERSON: Thank you.

22 BOARD MEMBER PAPARIAN: Madam Chair, I'll make  
23 the motion to approve Resolution 2001-437.

24 BOARD MEMBER JONES: And change the number to  
25 225.



1 BOARD MEMBER PAPARIAN: With the number change  
2 to 225, thank you.

3 BOARD CHAIR MOULTON-PATTERSON: And are you  
4 seconding that, Mr. Jones?

5 BOARD MEMBER JONES: Yes.

6 BOARD CHAIR MOULTON-PATTERSON: Okay. Motion by  
7 Mr. Paparian, seconded by Mr. Jones to approve Resolution  
8 2001-437 with the change to 225,000.

9 Please call the roll.

10 BOARD SECRETARY VILLA: Eaton?

11 BOARD MEMBER EATON: Aye.

12 BOARD SECRETARY VILLA: Jones?

13 BOARD MEMBER JONES: Aye.

14 BOARD SECRETARY VILLA: Medina?

15 BOARD MEMBER MEDINA: Aye.

16 BOARD SECRETARY VILLA: Paparian?

17 BOARD MEMBER PAPARIAN: Aye.

18 BOARD SECRETARY VILLA: Roberti?

19 BOARD MEMBER ROBERTI: Aye.

20 BOARD SECRETARY VILLA: Moulton-Patterson?

21 BOARD CHAIR MOULTON-PATTERSON: Aye.

22 Number 22, Southern California.

23 MS. GILDART: Item 22 is consideration of  
24 approval of scope of work for the Southern California  
25 Rubberized Asphalt Concrete Technology Center contract.

1           The Southern California RAC center has been in  
2   operation longer than the Northern California. Los  
3   Angeles County first approached the Board in the fiscal  
4   year '96-'97 with a proposal to establish a RAC center  
5   out of the county. Their intent was that local  
6   government speaking to local government would be the best  
7   means of communicating and increasing the use of RAC.

8           The Board awarded Los Angeles County \$500,000  
9   for the '96-'97 fiscal year. That was followed up by a  
10   second agreement in '97-'98 for an additional \$500,000.  
11   And then a third agreement in fiscal year '99-2000 for an  
12   additional 200,000.

13          With that money Los Angeles County has conducted  
14   outreach training and education workshops. They have  
15   provided hands-on consultation for the selection and  
16   design of projects, and administered a quality assurance  
17   quality control incentive program whereby local  
18   governments using rubberized asphalt have monies to pay  
19   for expertise at the plant and in the field to observe  
20   and advise on the placement of rubberized asphalt.

21          In this agreement staff is proposing \$250,000  
22   again for this fiscal year and next fiscal year, and if  
23   the Board so wishes, we can reduce that to the \$225,000  
24   to provide money for the evaluation contract, and  
25   continue the Southern California center's activities.

1           There is a handout being given to you now that  
2   lists the accomplishments of the Southern California  
3   center. And Mike Mohajer is here to describe those  
4   accomplishments and answer any questions.

5           There's also a handout attempting to describe  
6   the differences between the different RAC technology  
7   processes; the wet process, the dry process, and the  
8   terminal blend technology which I believe Member Jones  
9   was asking about.

10          At this time if you have any questions of me or  
11   of Mr. Mohajer we'd be happy to answer them.

12          BOARD CHAIR MOULTON-PATTERSON: Okay. Any  
13   questions of Ms. Gildart or Mr. Mohajer?

14          BOARD MEMBER JONES: Madam Chair.

15          BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

16          BOARD MEMBER JONES: I don't have any questions  
17   of Mr. Mohajer yet, but I do think that we need to, in  
18   the scope of work I want to include the, and I don't care  
19   how we do it, but L.A. County gets a royalty on a  
20   particular process, and I think it needs to be identified  
21   in any product that goes out or any literature that goes  
22   out that, in fact, whatever they're promoting, when they  
23   promote that particular product they get a royalty, and  
24   that needs to be identified.

25          And I'd like to see that added because I'm not

1     sure on the next item, I had some issues with trying to  
2     figure out who was going to do it now that Lynn Nicholson  
3     has retired, and nobody contacted me since the agenda,  
4     since our agenda review when I made that clear. So I  
5     haven't heard a word.

6             BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.  
7     Paparian.

8             BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

9             With that I'd like to move Resolution 2001-438  
10    with a couple of changes.

11            One would be change the 250,000 to 225,000. And  
12    I think it may be appropriate, as by our counsel, to be  
13    very explicit in resolutions referring to HCFA staff, so  
14    I'd like to add another whereas. And the whereas would  
15    read,

16                    "Whereas \$50,000 will be  
17                    allocated for a statewide program  
18                    evaluation, which will begin at least  
19                    a year from now, and be completed  
20                    before the next RAC center  
21                    allocation."

22            BOARD MEMBER JONES: By somebody other than L.A.  
23    County. It's in their resolution, but it's open.

24            BOARD MEMBER PAPARIAN: Right. Yeah. We're  
25    looking for an independent, I probably should say that

1 word, "Allocated for an independent statewide program  
2 evaluation."

3 BOARD MEMBER JONES: Very well, I'll second  
4 that.

5 BOARD CHAIR MOULTON-PATTERSON: Okay. Motion by  
6 Mr. Paparian, seconded by Mr. Jones to approve Resolution  
7 2001-438 with the changes read into the record and the  
8 change of the 225,000.

9 Please call the roll.

10 BOARD SECRETARY VILLA: Eaton.

11 BOARD MEMBER EATON: Aye.

12 BOARD SECRETARY VILLA: Jones.

13 BOARD MEMBER JONES: Aye.

14 BOARD SECRETARY VILLA: Medina.

15 BOARD MEMBER MEDINA: Aye.

16 BOARD SECRETARY VILLA: Paparian.

17 BOARD MEMBER PAPARIAN: Aye.

18 BOARD SECRETARY VILLA: Roberti.

19 BOARD MEMBER ROBERTI: Aye.

20 BOARD SECRETARY VILLA: Moulton-Patterson.

21 BOARD CHAIR MOULTON-PATTERSON: Aye.

22 Number 23.

23 MS. GILDART: Item 23 is consideration of  
24 approval of contractor for the Southern California  
25 Rubberized Asphalt Concrete Technology Center contract.

1           One of the handouts that was just given to you  
2   is a letter from the County of Los Angeles in which they  
3   describe some of their accomplishments.

4           On the second page there is a listing of the  
5   staff who will be carrying out the scope of work just  
6   approved.

7           The program director will be Fred Rubin, who is  
8   the assistant deputy director of the materials  
9   engineering division. Technical advisor will be Byron  
10   Rexwinkle, a materials engineer. And the workshops and  
11   outreach will be conducted by Eric Updike, senior  
12   engineer, and Jenny Watta of the materials engineering  
13   division. The letter is dated November 13th, so this was  
14   as soon as we could get it to you after Wednesday's Board  
15   meeting. And I apologize if it was slow.

16           Staff recommends award of the contract.

17           If the Board has any questions, I'd be happy to  
18   answer.

19           BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

20           BOARD MEMBER JONES: Madam Chair. I think the  
21   Southern California Rubberized Asphalt Center has done a  
22   pretty good job. We have disagreed from time to time, me  
23   personally, with some of their stuff, but I think under  
24   Lynn Nicholson they did a good job.

25           Mr. Mohajer brought somebody by my office about

1 maybe six months ago, I guess, and I asked him a simple  
2 question, you know, who's going to be dedicated to this,  
3 how much time? And it was kind of like, well, you know,  
4 we'll figure that out.

5 You know, I'm not prepared today to vote for  
6 L.A. County to take over this. I'd like to see it go out  
7 to RFP.

8 It seems pretty clear to me that when a Board  
9 member, I mean I made it real clear in the agenda review  
10 that I'd like to at least see who's doing this stuff for  
11 them so I could talk to them because it's critical, the  
12 enthusiasm level has got to be there to sell this  
13 product. And four names on a piece of paper doesn't get  
14 that for me, not when every time there's an issue here  
15 and people are banging down our doors.

16 So I had an issue and nobody decided to bank  
17 down my door, you know, personally, I don't know what  
18 other members feel like, but I'd like to see it go out to  
19 RFP.

20 BOARD CHAIR MOULTON-PATTERSON: I'd like to give  
21 Mr. Mohajer a moment to address that if he'd like.

22 Mr. Mohajer.

23 MR. MOHAJER: Good morning, Madam Chair, members  
24 of the Board. Mike Mohajer, L.A. County Public Works.

25 We received a phone call, I believe it was on

1 the 8th or 7th, a day after that you had the hearing.

2 And I delivered the letter yesterday afternoon after  
3 lunch.

4 And as far as contacting you personally or  
5 having someone contact you, that message was not relayed  
6 that you specifically wanted to meet with someone from  
7 public works.

8 As far as dedicating staff that is going to be  
9 full-time, one hundred percent of their time are going to  
10 be spent on this project, that is not the case at all.

11 As you know, Lynn Nicholson was a former retired  
12 public works employee and so he, solely as a part-time  
13 project, conducted that, and the rest of the time he was  
14 a retired employee.

15 Right now we have allocated four people that the  
16 top person would be the division head of materials  
17 engineering, and the other individuals that are going to  
18 be working on this project. As far as allocating of time  
19 is concerned, it would be somewhere between fifteen and  
20 twenty percent of their time that they will be spending  
21 on this project. They are not going to be spending their  
22 full time on this project, they've got other projects to  
23 do also.

24 As far as the loyalty is concerned and whether  
25 or not L.A. County promotes one process over the other



1 process, as I mentioned also last summer when we met, we  
2 do not promote one process over any other process, we are  
3 prohibited by the state law, the same law you have to  
4 comply we have to comply, we are a public agency. So we  
5 cannot promote one product over the other product,  
6 including those that public works finance itself.

7 We maintain 5,000 miles of roads, and we use  
8 quite a bit of rubberized asphalt, and we don't promote  
9 one process over the other process.

10 As far as you indicating you have heard, well I  
11 should certainly like to see that anybody that claims  
12 that we promote one product over the other product, that  
13 that's what we have put in our contracts, or as a part of  
14 the RAC center are achieved. If they can substantiate  
15 that, that is fine. That is not the case, will not be  
16 the case whether or not we get the contract.

17 This is a, we believe this contract is something  
18 that is worthwhile. It would help to divert tires from  
19 going to landfills. It is a program that we really  
20 initiated before even the Waste Board got involved.  
21 Going back to '91, we allocated approximately about \$6  
22 million annually to use rubberized asphalt and slurries,  
23 and we're continuing that as well.

24 And we will, we will be, the contract as far as  
25 what the L.A. County Public Works is going to do for use

1 of the materials because it's a good program. And we  
2 have done a good job and we will be doing a good job.

3 Certainly, as Mr. Paparian says, you are going  
4 to have evaluations. And if evaluation doesn't  
5 materialize to your satisfaction, then you're more than  
6 welcome to award it to someone else.

7 So that's basically what I have to indicate.  
8 And we have, when we sign a contract our Board of  
9 Supervisor put their signature on the dotted line, we  
10 commit, a county is not a vote of one individual or the  
11 county doesn't operate based on whether Mr. Lynn  
12 Nicholson was there or was not going to be there, we are  
13 committing to provide the service and that's what's going  
14 to happen if we do get the contract.

15 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
16 Mohajer.

17 Any other questions for Mr. Mohajer? So you're  
18 saying that someone would be devoting approximately 20  
19 percent of their time?

20 MR. MOHAJER: Madam Chair, there are four people  
21 listed back there, that they are four people that are  
22 going to be in charge of the contract. Depending on  
23 their level of involvement they're going to be spending  
24 different time.

25 You got Fred Rubin as assistant deputy director.

1 He is the equivalent to my level. We are definitely not  
2 going to be spending a hundred percent of this time.

3 We got there, the other two engineers are  
4 probably going to be spending approximately fifteen to  
5 twenty percent of their times.

6 And the public education is probably going to be  
7 about forty to fifty percent.

8 But they not a, they are full-time employees of  
9 public works, but they are not going to be spending one  
10 hundred percent of their time on this contract.

11 BOARD CHAIR MOULTON-PATTERSON: I understand.  
12 But you're saying Los Angeles County is enthusiastic  
13 about the program?

14 MR. MOHAJER: I'm very committed and we have  
15 been and we will continue.

16 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.

17 BOARD MEMBER ROBERTI: Madam Chair, just a very  
18 brief remark. I have been to the Los Angeles County's  
19 Department of Public Works center, and they do have an  
20 enthusiastic group of people who, who I've been impressed  
21 with, and I would hate to move away from the county when  
22 in the prior agenda item we voted to give Sacramento  
23 County a sole source. So it would be almost  
24 incomprehensible to have those back to back votes.

25 So I'm supporting Mr. Mohajer's position.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you.

2 Okay.

3 BOARD MEMBER JONES: Madam Chair.

4 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones and  
5 then Mr. Eaton.

6 BOARD MEMBER JONES: You know, I don't know if  
7 it's incomprehensible, but I know I've seen a lot of  
8 weird things around here every once in a while.

9 But I do, I do have a problem. I'm not saying  
10 that this has to be a full-time employee, Mr. Mohajer.  
11 What I'm saying is that there needs to be a level of  
12 enthusiasm. There has to be. I mean I don't know how  
13 Fred Rubin feels about rubberized asphalt. I don't know  
14 how Byron Rexwinkle feels about rubberized asphalt, or  
15 Eric or Jenny, I don't know.

16 I knew when I talked to Lynn Nichols -- or yeah,  
17 Nichols, Nicholson, that he was enthusiastic about  
18 rubberized asphalt. He, I saw him in action.

19 All I wanted to know was who these people were  
20 and what they were going to bring to the table. That is,  
21 you know, I don't know. I mean L.A. County is telling me  
22 that they're supportive and they're going to put people  
23 on this, it tells me the contract is going to be  
24 fulfilled. I don't know if, if, how these people even  
25 feel about rubberized asphalt. Do you?

1               MR. MOHAJER: Mr. Rubin is, he is the head of  
2     the materials engineering division that they do all the  
3     testing for any type of products that the County of Los  
4     Angeles use.

5               Byron Rexwinkle, he's in charge of our  
6     laboratory and testing of all the materials, physically.  
7     He is running the laboratory and he's going to be running  
8     the center as well.

9               Eric Updike is a person that is going to be  
10    around and going to, meeting the various city engineers  
11    and public works, and he is in charge of our construction  
12    works out in the field working with the contractors.

13              BOARD MEMBER JONES: And if he's in charge of  
14    construction, is he, does he make the decisions on some  
15    of those jobs whether or not they're going to be regular  
16    asphalt or rubberized?

17              MR. MOHAJER: No, because those, the decision,  
18    the contract that goes out for public works, that job is  
19    done with our road maintenance division, they are going  
20    through the RFP process with the low bid and the Board of  
21    Supervisors makes the ultimate decision.

22              He is going to be out in the field just to make  
23    sure that the jobs are done according to the specs,  
24    that's what his normal job is.

25              MS. GILDART: Could I make a suggestion? If

1 part of the concern here on the award of the actual  
2 contract is knowing the people, maybe we could put off  
3 consideration of this item for a month and we could have  
4 a meeting arranged with the proposed staff and any  
5 interested Board members and their offices. Would that  
6 help?

7 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.  
8 Gildart.

9 Mr. Eaton and Mr. -- oh, Mr. Medina and then Mr.  
10 Eaton.

11 BOARD MEMBER EATON: That's fine, I was just  
12 going to make the same suggestion as a courtesy to a  
13 fellow Board member. I'm fully prepared to vote for the  
14 County of L.A. but as a courtesy, if it's a comfort  
15 level, that's one thing, but if it's a disagreement about  
16 who gets the contract, then you know, I think I'll vote  
17 for the County of L.A.

18 BOARD CHAIR MOULTON-PATTERSON: Before we go to  
19 a motion, and I think one might be coming, we do have one  
20 additional speaker that just came to me right now.

21 Thank you, Mr. Mohajer.

22 MR. MOHAJER: Madam Chair, I'd just like to  
23 mention one other information also that was not  
24 indicated.

25 We have not received any funding for the

1 contract since May 15th, and these are right after Lynn  
2 Nicholson retired. And so as far as making one of the  
3 requirements that from now on any contractor or any job  
4 that comes, let's forget about the L.A. County as a  
5 whole, I probably would be asking the same question, is  
6 whether the contractor is really interested in  
7 performing, they have to substantiate their interest  
8 before a contract is awarded, that that would be another  
9 criteria that is going to be added as a part of the RFP?  
10 Because that is the question that is being asked of the  
11 L.A. County, are the employee of the L.A. County are  
12 interested in performing the contract.

13 The contract is being signed with the County of  
14 Los Angeles, not the Department of Public Works, not  
15 individual employees. I take it somewhat personally from  
16 the staff point that we are, individuals are being put  
17 down that they have to substantiate to the satisfaction  
18 of the Board, individual Board member that those persons  
19 are really committed to performing a job that the County  
20 of Los Angeles pays 'em to perform.

21 BOARD MEMBER ROBERTI: Madam Chair, I agree with  
22 Mr. Mohajer.

23 MR. MOHAJER: And I take exception to that.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you,  
25 Senator.

1                   BOARD MEMBER ROBERTI: We don't do, I mean I  
2 know it wasn't intended, but we don't put other  
3 applicants through that extra hoop.

4                   BOARD CHAIR MOULTON-PATTERSON: Right. Thank  
5 you, Mr. Mohajer.

6                   Dr. Barry Takallou and then to Mr. Medina.

7                   MR. TAKALLOU: Yeah, I'm Barry Takallou with  
8 CRM Company. Besides my full-time job, I'm also chairing  
9 the Rubber Asphalt Committee for Asphalt Paving  
10 Association of California.

11                  And individuals was, the individual name was, by  
12 L.A. County, and I just wanted to let you know that  
13 they've been very instrumental in our committee; Mr.  
14 Updike, Mr. Rexwinkle, and Jenny, they attend all of our  
15 committee meetings and in working closely with the  
16 association, Asphalt Paving Association.

17                  BOARD CHAIR MOULTON-PATTERSON: I appreciate you  
18 coming forward and saying that Dr. Takallou.

19                  Thank you.

20                  MR. TAKALLOU: The only thing I also want to add  
21 to this, my comment. In Los Angeles County we've got 88  
22 cities which I believe over 80 cities already using  
23 rubberized asphalt are the largest city, which is the  
24 City of Los Angeles, that's the only cities not using  
25 rubberized asphalt, and I was hoping the Southern



1 California can work closer with the City of Los Angeles,  
2 because that would amount to lots of market if they would  
3 be, start using rubberized asphalt.

4 BOARD CHAIR MOULTON-PATTERSON: Thank you. We'd  
5 like to encourage that.

6 Mr. Medina.

7 BOARD MEMBER MEDINA: Yes, Madam Chair. I can  
8 only speak to my experience when I was at Caltrans, and  
9 it was my experience that Caltrans had a close working  
10 relationship with the County of Los Angeles, and as we  
11 move to increase the use of rubberized asphalt, that's a  
12 good partnership that we had with the county.

13 And so I would strongly support the, moving  
14 forward with this resolution because I do think that  
15 it's, ultimately it's up to the county to enforce the  
16 contract, and it's up to this Board to oversee the  
17 contract.

18 BOARD CHAIR MOULTON-PATTERSON: Okay. With the  
19 225,000 like we did with the --

20 BOARD MEMBER MEDINA: Yes, with the 225,000.

21 BOARD CHAIR MOULTON-PATTERSON: And there would  
22 be evaluation?

23 BOARD MEMBER MEDINA: Yeah.

24 BOARD CHAIR MOULTON-PATTERSON: I'll second  
25 that. Okay.

1               We have a motion by Mr. Medina, seconded by  
2   Moulton-Patterson to approve Resolution 2001-439 with the  
3   change to 225,000.

4               Please call the roll.

5               BOARD SECRETARY VILLA:   Eaton.

6               BOARD MEMBER EATON:    Aye.

7               BOARD SECRETARY VILLA:   Jones.

8               BOARD MEMBER JONES:    (No response.)

9               BOARD SECRETARY VILLA:   Medina.

10              BOARD MEMBER MEDINA:   Aye.

11              BOARD SECRETARY VILLA:   Paparian.

12              BOARD MEMBER PAPARIAN:   Abstain.

13              BOARD SECRETARY VILLA:   Roberti.

14              BOARD MEMBER ROBERTI:   Aye.

15              BOARD SECRETARY VILLA:   Moulton-Patterson.

16              BOARD CHAIR MOULTON-PATTERSON:   Thank you.

17   We're going to be taking a fifteen minute break or a ten  
18   minute break, and then we'll come back and hear item  
19   number fifteen that was time certain for 11:00 a.m.

20              (Thereupon there was a brief recess.)

21              BOARD CHAIR MOULTON-PATTERSON:   I'd like to  
22   call the meeting back to order, please.   We're going to  
23   have a long day today, I'm afraid.

24              Since we've got four we'll go ahead and get  
25   started.

1               Mr. Eaton, do you have any ex-partes?

2               BOARD MEMBER EATON: I'm up to date, thank you,  
3   Madam Chair.

4               BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
5   Eaton.

6               Mr. Medina.

7               BOARD MEMBER MEDINA: None to report.

8               BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

9               BOARD MEMBER PAPARIAN: None.

10              BOARD CHAIR MOULTON-PATTERSON: And I have none.

11              Okay. As I mentioned, we have item fifteen as a  
12   time certain item, and I will now turn it over to Tricia.

13              Excuse me, Ms. Broddrick, were you going to  
14   assist?

15              MR. SCHIAVO: Actually it's Marshalle.

16              BOARD CHAIR MOULTON-PATTERSON: Oh, Marshalle.

17              MS. GRAHAM: My name is Marshall Graham, and I  
18   work for the Board's Office of Local Assistance.

19              It's my pleasure to present the discussion of  
20   the School District Diversion Project Final Report and  
21   Findings.

22              And I would like to introduce Clint Whitney,  
23   he's with R and G Associates, and he's our contractor.

24              BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.  
25   Graham.

1                   MR. WHITNEY: Good morning, Madam Chair and  
2 Board members. I am Clint Whitney with R and G  
3 Associates. We're the contractor for the School District  
4 Diversion Project that you approved in May of 2000, and I  
5 will be giving you a brief presentation today of the  
6 report. I supplied hard copy reports to all the Board  
7 members. We're giving hard copy reports to all the  
8 school districts, as well as a CD electronic copy which  
9 you will get to have your publications department make as  
10 many and the type of reports that you like. But we also  
11 supplied a CD electronic copy to the school districts.

12                   With that, I'll get started with the  
13 presentation. As I said, this is a School District  
14 Diversion Project.

15                   And the purpose of the project, you may recall,  
16 and I'll briefly just remind you of why we did this and  
17 the structure of it, and then we'll get into the  
18 recommendation which is the meat of the project.

19                   We really, we wanted to have some kind of test  
20 to figure out we could take waste reduction practices  
21 into institutions in the commercial sector. And we  
22 focused on institutions because you have a long and  
23 credible history with working with school districts, and  
24 so we thought we would use school districts as a pilot  
25 project to learn how we might be able to learn with

1 school districts in the other institutions, and then  
2 possibly beyond into even the commercial sector.

3 Why school districts? They have a lot of the  
4 similarities of all other businesses. They are, after  
5 all, a business in addition to their educational mission.

6 They're distributed throughout the state.

7 They have the same business components as other  
8 businesses.

9 They have centralized management, which we  
10 wanted to use as part of our test.

11 They have multiple facilities, like many  
12 businesses and other institutions have.

13 And an important factor, they are very much an  
14 integral part of the communities that they serve.

15 Our project objectives were to identify those  
16 factors that are essential for institutionalizing waste  
17 reduction. You've had a past history of very good  
18 success of introducing recycling and waste reduction  
19 programs in schools. They generally were done with  
20 individuals or individual units of school districts. The  
21 programs were initiated, they were successful, but when  
22 the program sponsors moved on, they got promoted, the  
23 students graduated, or there were other changes in  
24 personnel, those programs tended to disappear. And we  
25 did find that in our pilot program.

1           Our second objective was to develop and test a  
2   model waste assessment methodology. We wanted to look to  
3   see if there was some easier way to determine where we  
4   should focus our attention to get waste diversion in  
5   school districts and other institutions without having to  
6   do a full dumpster dive kind of procedure.

7           We wanted to develop some resources, and we have  
8   developed a resource guide. It was not a deliverable in  
9   the contract, but we felt very early on that to have any  
10   meaning we needed some documentation that schools,  
11   consultants, institutions, local government, as well as  
12   your own staff could use as a resource as these analyses  
13   were being, were taking place out in the field.

14          So we have a resource guide that's almost up and  
15   running. We've got it designed and it's being  
16   implemented as we speak.

17          We wanted to develop a training and outreach  
18   plan, both for your staff, local jurisdictions, and then  
19   by extension to the other institutions that we'll be  
20   working with starting with school districts.

21          We do have in the report that we've supplied  
22   with you very detailed training and outreach plans.

23          And finally, we wanted to strengthen the  
24   relationship between your staff, local jurisdictions, and  
25   school districts. And we think we have found a way to do

1     that effectively, and believe that you will have  
2     considerable success if you follow some of our  
3     recommendations.

4             Project participants. We had several. Starting  
5     with your own staff, we worked with the Office of Local  
6     Assistance staff, and I'd like to take a moment to  
7     acknowledge and thank the fifteen people of your staff  
8     associated with this unit that worked with the  
9     contractor, particularly Marshalle Graham who led as  
10    project manager. I appreciate the level of detail and  
11    concentration that she brought to the project. She made  
12    a fantastic contribution to our success, and I'd like to  
13    thank her.

14            Thank you, Marshalle.

15            BOARD CHAIR MOULTON-PATTERSON: Thank you.

16            MS. WHITNEY: We also had as part of our staff,  
17    not our staff, but a resource committee which the Office  
18    of Local Assistance created. This is a committee made up  
19    of specialists throughout your Board, some 23 people that  
20    are either specialists in programs such as tires or waste  
21    oil or a variety of hazardous waste, green building,  
22    etcetera; but also this committee includes a member from  
23    the Department of Education, State Department of  
24    Education, the Department of Pesticide Regulation, as  
25    well as interest from other BDO's, Department of

1 Conservation as well.

2 So, and that probably will grow in its  
3 representation over time because part of your role now  
4 under SB 373 is to broaden your reach to the other  
5 agencies of state government.

6 Local jurisdictions. We worked closely out in  
7 the field with the local jurisdictions. In every case  
8 when we went into the pilot district, the local  
9 jurisdiction was invited to participate, they did.

10 And we also asked the contract haulers to  
11 participate in the work in the field. And in every case  
12 but one in which they don't have a contract hauler they  
13 also participated. And we found them to be an extremely  
14 valuable resource.

15 And finally, we had a consultant team made up of  
16 myself and some specialists, including two ex-school  
17 superintendents of schools, and they are actually working  
18 in the field now as well. So we brought some school  
19 people into our team to help us learn how to speak school  
20 as it were.

21 The pilot districts, and this slide is the six  
22 pilot districts that we asked to participate. We are  
23 grateful for their participation. They were very  
24 helpful, open in helping us gather the information.

25 The one point I'd like to make here is that



1   pursuant to your Board's direction back in May of 2000,  
2   we tried to have a diversity here in these districts of  
3   both size, type, school type, as well as geographic and  
4   demographic diversity. So we tried to get a good  
5   cross-section of our school population included in our  
6   pilots. We think we achieved that pretty well.

7               We conducted waste assessment reports, and I  
8   won't go into detail about these in the interest of time.  
9   But we basically went into the school district, meet with  
10   the leadership, which were usually the department heads,  
11   the chief business official, and in a couple of cases the  
12   superintendent, to introduce ourselves, ask their help  
13   in, for a couple of days of us looking at their system.

14              We then documented or conducted interviews with  
15   each of the department heads and several of the staff  
16   people.

17              We took a physical look at their facilities,  
18   including all of their waste management system.

19              We then identified opportunities for waste  
20   reduction, put that in a report that included not only  
21   those opportunities, and we tried to display those by  
22   priority.

23              The easy ones and the ones that you can get the  
24   most bang for your buck opportunities first, and then  
25   secondary, and then third level priorities that we could

1 continue to work with.

2 We identified local and state resources. We  
3 found that, one of our findings is that the school  
4 districts were not generally aware of just how much  
5 support and technical help and how much information is at  
6 their disposal to sort this thing out for themselves.

7 And so we, here again the resource guide will be  
8 a key document in that regard. But also you have a lot  
9 of information in your files as well as staff expertise  
10 to assist.

11 Finally, we recommended model policies. And  
12 what we mean by that is that we believe that in order,  
13 the key to institutionalizing waste reduction programs at  
14 schools, and we believe this to be true in other  
15 institutions as well as the business community, is that  
16 top management, in this case school boards and the  
17 superintendent, adopt written policies that become the  
18 operating modus operandi of the district. That has to be  
19 there or the risk of the programs not being sustained  
20 increases.

21 Key findings that we made, and there are many  
22 more in the report but here's a summary of the top tier.

23 Pilots already have various levels of waste  
24 reduction in place. Of the six pilots, the lowest  
25 performance level was 26 percent diversion, and the

1 highest performance level was 43 percent. So the school  
2 districts that we looked at, without any assistance from  
3 anybody that we can determine in these pilots, for their  
4 own good business reasons were pursuing waste reduction  
5 to try to reduce their trash bills.

6 Having said that, the pilots can do more. We  
7 found that a lot of the equipment that the haulers were  
8 supplying as a base component of their waste services  
9 were not being fully utilized.

10 We found that the communication between the  
11 management and the people and the schools where it was  
12 not clear, in many cases; therefore, good recyclable  
13 material was being put in the trash bin.

14 So we feel that there is a lot of room for  
15 improvement with school districts. We think this would  
16 probably be true of other institutions as well.

17 Performance varies between facilities. We found  
18 some schools in the same district that were doing a great  
19 job of instructing their employees and students in waste  
20 reduction practices and where to put recyclables. Other  
21 schools in the very same districts were doing virtually  
22 nothing.

23 So there's an inconsistency there that goes back  
24 to if there is a written policy with operating  
25 procedures, that should assist in the communication as to

1     what the procedure of the district is.

2                 We found in every case, not a single one of the  
3     pilots had formal waste reduction policies in place  
4     adopted by the school board.

5                 And we found that we, again, that school  
6     officials were generally unaware of the local and state  
7     resources available to them.

8                 And most importantly, we found the local  
9     jurisdictions that we worked with really were at a loss  
10    as to how to get their foot in the door at the schools.

11                For a variety of reasons that I won't go into,  
12    we discuss this in the report, but suffice it to say that  
13    they needed a way to figure out how to make that first  
14    contact, how to get something started. So we talk a lot  
15    about that in our report. And it is also included in our  
16    training program that we'll talk about a little later.

17                Some of the lessons learned from our pilot.  
18    Number one, it's important to understand the business of  
19    schools.

20                There are two types of businesses in schools.  
21    There's the education business in which the certified  
22    employees, I mean the certificated -- do I have it  
23    backwards? The certified employees engage in, which is  
24    the education. That's the superintendent, the  
25    principals, and the teachers.

1           The other half of it are the business people  
2   that deal with all the support functions, purchasing,  
3   transportation, waste, all of the business functions.  
4   It's important to know which one you're talking to and  
5   why.

6           Generally speaking, we found that the  
7   educational folks will be a whole lot less interested in  
8   waste diversion than the business folks, because the  
9   business folks can tie it to their performance on the  
10  bottom line of the school district, where the  
11  superintendents are somewhat at arms length from those  
12  issues.

13          School officials we found, as you well know, are  
14  under extreme pressure to meet educational mandates right  
15  now. So therefore, if you go into school districts right  
16  now, be prepared they're not going to view you as the  
17  center of the universe. They've got a lot of pressure.  
18  At best we're going to be a distraction for a while, so  
19  we want to be the least distraction we can to their core  
20  mission.

21          And finally, this was quite evident everywhere  
22  we went. The districts are more likely to adopt programs  
23  that are "cheap, easy, and convenient." And that's a  
24  quote from one of the administrators that we interviewed  
25  indicating that, look, we've got so much on our plate

1     that if you can help us make this cheap, easy, and  
2     convenient, we will do it. If you have us set up  
3     bureaucratic procedures, if you have us do a whole bunch  
4     of other things, then it's going to be tougher for us to  
5     do, and we probably will avoid it until we get these  
6     other things, educational matters off our plate.

7             So we conclude that these things are essential  
8     in sustaining waste reduction programs in school  
9     districts, and we believe, by extension, into other  
10    institution.

11            First, we should ask and encourage formal  
12    adopted district policies, written district policies.

13            Second, we need management leadership and  
14    support. That generally can come in the way of two  
15    parts; one are written procedures that employees are to  
16    follow knowing where to recycle, how to recycle, how to  
17    reduce waste; and secondly, just communication from  
18    management that this is an important activity. We feel  
19    that that's very important.

20            We believe and we found that local government  
21    assistance is a must. They're the ones that have the  
22    vested interest in the results after all, they should be,  
23    and we found them enthusiastic to get into the schools,  
24    they just didn't know how to start. But we found that  
25    once they get in there, as we found when we were in

1     there, the schools respond quite well to both the  
2     information and the consultant advice. And after all,  
3     these are free consultants in a sense.

4             We believe that you've got to have good strong  
5     support from your Board, primarily through the Office of  
6     Local Assistance, with the local jurisdictions, but also  
7     in other programs that you are involved in with, that are  
8     school related or institution related. And we have a  
9     game plan that we'll get into in a moment about how to  
10    tie all that together.

11            Very important is that people have to know what  
12    facilities they have in their region that they can use.  
13    It does no good to ask a school district to get involved  
14    in a massive food waste diversion program if they don't  
15    have the infrastructure to do that. So we've got to be  
16    careful that we understand what facilities, and here  
17    again, the local jurisdiction should have that  
18    information and bring that to bear.

19            And finally, we need proactive waste haulers.  
20    The waste haulers are, frankly, the closest professional  
21    waste management people that a school district come in  
22    contact with. The rest of us are once removed from the  
23    actual business. And so the waste hauler, and we found  
24    in all of our jurisdictions the waste hauler to be key,  
25    enthusiastic in working with the districts, and in every

1 case doing a pretty good job of working with the  
2 districts and guiding the districts towards waste  
3 reduction policies, and supplying the equipment and a  
4 variety of other services as part of their service.

5 Finally, our recommendations. We think that  
6 there are three components that we would recommend to  
7 you.

8 One is to prepare a comprehensive plan for  
9 school districts that, first, establishes goals,  
10 objectives, priorities, and performance. What do you  
11 expect to gain from your investment of dollars and staff  
12 time in working with schools and other institutions?

13 Second, we think this plan should coordinate all  
14 of your school-related programs and activities within the  
15 Board and externally now that you have the new Office of  
16 Integrated Environmental Education, I'll get that acronym  
17 pretty soon. You are charged with reaching out to the  
18 other Board's departments and office of Cal EPA, but also  
19 beyond to other state departments and local agencies. So  
20 we think you should bring that into focus.

21 We think, secondly, you should extend your  
22 resources by partnering, creating partnerships with local  
23 government. This is, we think, key. You do not have the  
24 staff nor, I think it's reasonable to presume, you will  
25 never have enough staff to engage all of the school



1 districts directly yourself. Therefore, you can leverage  
2 your presence in school districts and other institutions  
3 by working with local jurisdictions.

4 And there's a natural reason why they would want  
5 to do that is because they're responsible for meeting 939  
6 goals. You're responsible for helping them meet those  
7 goals as a partner.

8 So we think you should add three parts to this.

9 First, a training program for your own staff,  
10 how to work with schools. Some of the things that we  
11 learned in this pilot can be transferred to the knowledge  
12 base of your staff so that they know how to speak school,  
13 they know how schools are organized, and a variety of  
14 other matters.

15 Secondly, we think the, you should have a  
16 comprehensive program for training local government. And  
17 we have included, as I say, in our report, a training  
18 plan, pretty detailed training plan as to how to go about  
19 that. And Marshalle will be filling you in a little bit  
20 on the immediate plans for beginning that work.

21 And then finally, we think that you should  
22 continue to improve and supply good information and  
23 technical support, not only to local jurisdictions, but  
24 to schools, consultants, and anybody else.

25 You have a wonderful Web page that has extensive

1 information. That's one of the findings that we were  
2 pleased to see here, that you have a wealth of  
3 information that could be brought to bear here, it's a  
4 matter of organizing that material and making it  
5 available and user friendly.

6 And I think the resource guide that Marshalle  
7 will talk about a little later will go a long way towards  
8 doing that.

9 Finally, we think you should conduct a  
10 comprehensive outreach program. And what we mean by this  
11 is not just going to annual sessions of organizations and  
12 making the presentation and then walking away; we believe  
13 that you should work diligently to develop relationships  
14 with these organizations, first of all, and the first  
15 ones that we selected to start with would be the  
16 educational associations.

17 These are the education business associations,  
18 California School Boards Association, California  
19 Association of School Business Officials, the Association  
20 of California -- let's see, School Administrators, sorry,  
21 and the PTA which is not an industry organization, but it  
22 is certainly one that has an acute interest in schools.

23 And what we think you should do there is you  
24 should work with them and ask them to put on their Web  
25 page and in their document resources that the school

1 boards can use, model policies, if you will, would be the  
2 first level, that the school boards can go back and adopt  
3 these model policies simply by putting in their school  
4 district's name. Everything else is written for them.  
5 This will start the process.

6 But ongoing, continue to go to their training  
7 sessions, go to their annual sessions, and whatever other  
8 sessions they have. Work at the wholesale level is what  
9 I call it. Let the local jurisdictions work at the  
10 retail level, which would be the school districts  
11 themselves, with your assistance.

12 Professional associations is the next level that  
13 we recommend. After you've cut your teeth on the first  
14 group, we think you can go to the next level which is to  
15 talk to the professional organization. Your food service  
16 professionals, your purchasing professionals,  
17 transportation, associations of professionals. These are  
18 the people that make decisions to start programs in their  
19 individual units. Again, it's important for them to  
20 understand the benefits to their particular unit as well  
21 as being motivated to try to implement some of these  
22 things.

23 We think you can extend this to other business  
24 associations. The associations that Office Depot belongs  
25 to, or the printing industry belongs to. You can do

1     these same things.

2             For example, just to give you an example of  
3     working with cooperatives, purchasing cooperatives. Many  
4     school districts in the state belong to purchasing  
5     cooperatives. There's one here in El Dorado County that  
6     has some eighty plus school districts in this region that  
7     belong to this cooperative. It is run by two people.

8             And we found as we went to Placer Union High  
9     School District, we went to tour their warehouse to see  
10    what kind of supplies they had. We noticed that  
11    virtually every paper product was at least some degree of  
12    recycled paper content, recycled content paper. A  
13    hundred percent on some products, 20 percent on others,  
14    30 percent, and so on. So we applauded the manager that  
15    was showing us around and praised her, "This is  
16    wonderful, how did you manage to get this done?"

17            "What do you mean?" She said. She did not even  
18    know that it was a recycled content paper, because the  
19    cooperative she belongs to adopted that as their default  
20    position. Therefore, the school district, in order to  
21    get virgin material paper, had to order it special.

22            And so we think there's a key lesson there that  
23    your staff and the local jurisdictions should work with  
24    these purchasing cooperatives to have them adopt these  
25    policies, therefore it's a passive event as far as the

1 ultimate customer is concerned. So that, we think that's  
2 a good strategy.

3 Finally, and this is important, we think that  
4 this training and outreach effort is so important to the  
5 success of rolling out this strategy, that you should  
6 dedicate a full-time staff to the training and outreach  
7 programs, training your staff and local jurisdictions,  
8 and the outreach program as we've outlined it in our  
9 report. While the level and the funding source and all  
10 of those things we'll leave you to work out.

11 Here's a kind of a schematic of how this all  
12 ties together. And I'll only point out that, A, it all  
13 goes down to the school districts, that's where it all  
14 ends up.

15 And B, we have a dotted line here that indicates  
16 that we think that in your plan, your comprehensive  
17 school plan, you ought to account for all the activities  
18 over on the curriculum side.

19 We found in the pilot, in this effort, that you  
20 already have a significant amount of communication  
21 between the curriculum people that are out in the field  
22 working with teachers and others with the waste diversion  
23 people. We think you ought to recognize that and account  
24 for that relationship, and take the opportunity to  
25 enhance it at every opportunity you have.

1               Finally, we think that you can apply this very  
2   same model, of course, to all the other school districts  
3   in the state.

4               We think that you can also apply it to other  
5   institutions, prisons, hospitals, and the like.

6               And finally, we think there's no reason that you  
7   cannot also use this same methodology working with the  
8   business community and industry. They have all the same  
9   ingredients the school districts do, including  
10   professional and business associations that you can work  
11   with with your training and outreach. They all are in  
12   communities, etc.

13              Finally, we recommend that you review the  
14   comprehensive plan once it's put together by this  
15   committee; that we're recommending that you, that it's  
16   comprised of at least the four divisions that are  
17   involved.

18              You should review that plan to satisfy yourself  
19   that you're covering all the bases.

20              And then finally, maybe have some annual  
21   reports, progress reports from time to time that keep you  
22   up to speed on this.

23              As we find, in not only in this work but a lot  
24   of other work, follow-through is very important. It's  
25   one thing that you do this work, what you don't want to

1     happen is to put it on the shelf and nobody ever pays  
2     attention to it again.

3             So we're recommending that you devise a game  
4     plan and then monitor the implementation of that game  
5     plan.

6             And that concludes my presentation. Again, I  
7     appreciate the Board's sponsorship of this project, it  
8     was an extreme pleasure for R and G to work with you and  
9     your staff, and we thank you very much.

10            BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
11     Whitney.

12            Any questions for Mr. Whitney? Thank you, and I  
13     want to say a special thanks to Marshalle Graham and Cara  
14     Morgan for, I understand they did a really great job.

15            And I also thought it was great the way our  
16     different departments worked together on this.

17            Thank you, Mr. Whitney.

18            Okay. We'll go back to our regular agenda now,  
19     and we're on item number 24 and we have a couple of  
20     speakers on that.

21            Ms. Gildart.

22            MS. GILDART: Item 24 is consideration of the  
23     approval of the grant award for the tire product  
24     commercialization grant program for fiscal year  
25     2001-2002.

1           To give a short summary of the grant review  
2   process. The Board approved the grant criteria and  
3   scoring process at its April, 2001 meeting. The grant  
4   criteria are included on page four of your, this item 24,  
5   page four of your packet, and included need for ten  
6   points; objectives and methodology for ten points each;  
7   evaluation for five; budget at ten; completeness at ten;  
8   and recycled content purchasing policy for fifteen  
9   points; totalling seventy for the general criteria.

10           Program criteria included twenty points if  
11   applicant demonstrated the market potential or  
12   commitments to purchase products; five points if they  
13   provided a match in excess of the required 50 percent;  
14   and five points if the product had not been funded with  
15   the development grant in the last two years. This  
16   brought the total grant score to a hundred.

17           Staff issued a notice of funds available late in  
18   May, 2001. The notice was mailed to over six hundred  
19   interested parties and placed on the Board's website.

20           The application period ran from June to August  
21   17th, and included a question and answer period, with the  
22   deadline for submittal and return of questions of July  
23   18th.

24           Staff mailed application packages to all  
25   requestors and placed the package itself on the Web.



1           The application package contained the  
2   eligibility requirements, including the ability to  
3   process 250,000 passenger tire equivalents and match  
4   requirements, permit and licensing requirements,  
5   timeline, general and program criteria, detailed  
6   instructions, and sample documents of an authorizing  
7   resolution, and a recycled content purchasing  
8   requirement.

9           Grant administration unit staff, with the  
10   administration division, received 19 applications which  
11   were reviewed for eligibility and completeness. One  
12   application was disqualified for applying for a running  
13   track.

14           The remaining eighteen applications totalled --

15           BOARD MEMBER ROBERTI: Applying for a what?

16           MS. GILDART: A running track. They applied in  
17   the product commercialization program for a running  
18   track. That individual was referred to the Board's  
19   playground and running surfacing grant project.

20           The remaining eighteen applications totaled over  
21   \$5 million in requested funds.

22           Staff convened a scoring panel that was composed  
23   of staff from each of the three sections in the waste  
24   tire management branch; permits, remediation, and market  
25   development.

1           The grant manager and the grant's administration  
2   unit conducted a training and benchmarking session and  
3   benchmarked two applications for the panel.

4           Panel members then reviewed all applications and  
5   applied the Board's criteria in scoring the grants. The  
6   individual scores were compiled into a panel score, and  
7   applications ranked accordingly.

8           We then convened a post scoring review panel  
9   composed of the supervisor of the waste tire diversion  
10   section, the grant manager, and the grant administration  
11   unit staff to review all scores that fell within three  
12   points of the passing mark of seventy, those that were  
13   scored 67 to 73 points.

14           This resulted in our having ten grants that  
15   passed the criteria and ranking, and funds available to  
16   fully fund eight and a half roughly of those  
17   applications. They are listed in your packet.

18           In the last couple of days a critical issue has  
19   arisen that I need to make you aware of. Our top scoring  
20   applicant, U.S. Rubber, is in the process of moving its  
21   operation from its Rancho Cucamonga site to their new  
22   location in a recycled market development zone in  
23   Riverside.

24           They have a minor waste tire facility permit for  
25   their old site; they have not yet acquired the permit for

1 the new site.

2 A complaint was registered with our enforcement  
3 staff who went out to the site on Friday to inspect, and  
4 it was discovered that they had roughly 800 passenger  
5 tire equivalents on site without a permit.

6 A letter of violation is being issued to inform  
7 them.

8 And at this point we are going to present to the  
9 Board three options for how to deal with this  
10 circumstance.

11 First option is to deny the grant award to U.S.  
12 Rubber as their being out of compliance with the Board's  
13 permit compliance. Any monies that would have gone to  
14 them would move to applications further down on the list.

15 The second option is to approve the ranking and  
16 score, but to hold award of grant funds in abeyance until  
17 such time as the facility comes into full compliance.

18 The third option is to approve and issue the  
19 award and set a timeline for them to come into  
20 compliance.

21 Rick Snyder is here from U.S. Rubber if you have  
22 any questions on their operation or their intent.

23 And I understand there are other speakers from  
24 some of the other grants who would like also to make  
25 their presentations to the Board.

1           At this point --

2           BOARD MEMBER ROBERTI:  Madam Chair.

3           BOARD CHAIR MOULTON-PATTERSON:  Senator Roberti.

4           BOARD MEMBER ROBERTI:  If we knew of this  
5   violation at the time the original scoring was taken, how  
6   would that be handled?  How would that have affected the  
7   score?

8           MS. GILDART:  They most likely would have been  
9   disqualified from the review process at that time,  
10   however this only came to light on Friday.

11          BOARD CHAIR MOULTON-PATTERSON:  Okay.  Any  
12   others questions?

13          BOARD MEMBER PAPARIAN:  Madam Chair.

14          BOARD CHAIR MOULTON-PATTERSON:  Mr. Paparian.

15          BOARD MEMBER PAPARIAN:  We talked a little bit  
16   about the five year plan earlier.  Which, I want to make  
17   sure I understand which portion of the five year plan  
18   this grant comes from, this grant program comes from.

19          MS. GILDART:  I'm sorry.  In the market  
20   development section.

21          BOARD MEMBER PAPARIAN:  Is it -- I'm looking at  
22   page 32 and I want to make sure it's --

23          MS. GILDART:  No, page 39 which is the market  
24   development and new technology activities for waste and  
25   used tires.  It's the eighth item on the list, product

1 commercialization grants, \$2 million for fiscal year  
2 '01-'02, and then \$2 million for each of the remaining  
3 four years.

4 BOARD MEMBER PAPARIAN: I think I have a  
5 different version of it. Let me read the description  
6 that I have of the grant to make sure we're in sync.

7 "That the product  
8 commercialization grants will target  
9 businesses that need assistance to  
10 establish or expand their products to  
11 a commercial scale. The grants will  
12 be aimed primarily at developing  
13 molded rubber products per  
14 recommendation number fifteen of the  
15 AB 117 report."

16 MS. GILDART: That's correct.

17 BOARD MEMBER PAPARIAN: Okay. This gets,  
18 follows up on what I think Senator Roberti was talking  
19 about yesterday.

20 When I voted on the five year plan, in this item  
21 I thought it was going primarily towards developing  
22 molded rubber products, yet about half of what we see in  
23 the grants are related to incineration or ADC.

24 And I don't want to speak here to the merits of  
25 those projects, but it seems that when we put together

1 the five year plan we were pretty clear that this  
2 particular grant program was to deal with  
3 commercialization of products, primarily molded rubber  
4 products, yet I don't see ADC as a product, and I don't  
5 see incineration as a product as would be envisioned in  
6 this item.

7           So I, it's, if we wanted to do those sorts of  
8 things it seems like we should be more explicit about  
9 them rather than kind of hide them within the molded  
10 rubber products area.

11           MS. GILDART: I don't believe anything was  
12 hidden within the grant announcement. It is true that  
13 one of the biggest potential markets to absorb tires is  
14 the energy and ADC markets, which I understand in the  
15 past the Board has supported as forms of recycling.

16           If this does not meet the Board's understanding  
17 of the criteria or the intent of the program we can be  
18 directed to rescore or reissue the grant if that's the  
19 need.

20           BOARD MEMBER PAPARIAN: Again there is,  
21 elsewhere in this five year plan there is money available  
22 for ADF and -- or TDF rather, tire derived fuel related  
23 programs. And again it seems that when we put together  
24 the plan, the intention of this particular grant program  
25 was for commercialization of products primarily using

1     molded rubber.

2                   And I'm just having trouble making the  
3     connection between commercialization of a product and  
4     incineration of a tire or use of it as ADC.

5                   And again I'm not, I don't want to speak to the  
6     merits of ADC or incineration, but it seems that for this  
7     program, we intended it to be for commercialization of  
8     products that people would be able to purchase.

9                   BOARD CHAIR MOULTON-PATTERSON: Any other  
10    comments?

11                   Thank you. We'll go to the speakers.

12                   Oh, Senator Roberti.

13                   BOARD MEMBER ROBERTI: Maybe, if you don't have  
14    a rubber molded product why wouldn't that just have  
15    disqualified the application as you did in the case of  
16    the running track?

17                   MS. GILDART: The running track is covered in a  
18    separate grant program that is actually being reviewed at  
19    this time.

20                   BOARD MEMBER ROBERTI: I understand that, but  
21    the reason why, the reason why it didn't come, the reason  
22    why it didn't come out of this grant was because it's  
23    covered by another grant program, not that this grant  
24    wouldn't cover it.

25                   MS. GILDART: Yeah, this grant is intended to go

1 to the front end of the process. Our playground and  
2 track grants are sort of the back end.

3 BOARD MEMBER ROBERTI: Okay.

4 MS. GILDART: One is to promote the production  
5 end versus the product purchase or utilization. And, you  
6 know, if you imagine, we've tried to help tires moving in  
7 and out of the system.

8 As far as why it was not just primarily rubber  
9 molded products, we did not feel it was restricted to  
10 only molded rubber products. And part of what you see is  
11 a result of the kinds of applications, you know, the  
12 numbers and distribution of the types that we received.

13 BOARD MEMBER ROBERTI: But isn't a running  
14 track, and I'm totally a layman at this, isn't a running  
15 track a molded product?

16 MS. GILDART: Yes. And this is intended to  
17 provide monies to the people who might manufacture the  
18 running track rather than to a school that wants to put  
19 down a running track. That was the difference as to what  
20 end of the equation.

21 BOARD MEMBER ROBERTI: And the one that was  
22 rejected was?

23 MS. GILDART: Wanted to put a track in place.

24 BOARD MEMBER ROBERTI: Was it a school or was it  
25 a company, or was it private or public, or what was it?



1 And I have no, I don't even have a clue who these people  
2 are, but I'm trying to figure out the process.

3 MS. GILDART: Nate Gauff can give you.

4 MR. GAUFF: I'm Nate Gauff, I'm with the Special  
5 Waste Division.

6 The school, it was actually a school district  
7 that put in the application for the running track. And  
8 an additional reason why it was disqualified is because  
9 it didn't meet the minimum usage requirements of the  
10 program of 250,000 passenger tire equivalents. That  
11 track project did not meet that minimum usage  
12 requirement.

13 BOARD MEMBER ROBERTI: Is that a statutory  
14 minimum usage or a reg minimum usage?

15 MS. GILDART: It was part of the Board's adopted  
16 criteria for this program.

17 BOARD MEMBER ROBERTI: Our criteria, okay.  
18 Right. However, how is the five year plan treated, is  
19 that treated as part of our criteria?

20 MS. GILDART: No, there's no mention of criteria  
21 in the plan.

22 BOARD MEMBER ROBERTI: How is the five year plan  
23 factored into the staff's determination?

24 MS. GILDART: The five year plan gave us  
25 guidelines for how much money would be offered and for

1 the intent, which we took to be the expansion of  
2 commercial processes to develop products for tires that  
3 could consume 250,000 or more tires per year.

4 We realize that the molded rubber products was  
5 an important component, but we did not view it as  
6 restrictive to only molded rubber products. And the  
7 types of applications that we received covered a spread  
8 of activities.

9 BOARD MEMBER ROBERTI: And how much is not going  
10 to rubber -- how much is going to rubber molded products  
11 and not --

12 MS. GILDART: I think about five of the  
13 applications deal with a molded rubber product.

14 BOARD MEMBER ROBERTI: And how many do not?

15 MS. GILDART: That would leave three and a half  
16 of the ones with funding available, and five of the total  
17 that passed the scoring.

18 BOARD MEMBER ROBERTI: So it's roughly five and  
19 five.

20 MS. GILDART: Roughly.

21 BOARD MEMBER ROBERTI: And in terms of the  
22 dollars involved, do we have an idea?

23 MS. GILDART: I haven't looked at it that way,  
24 I'd have to take a quick --

25 BOARD MEMBER ROBERTI: I don't have the language

1 of the five year plan language is --

2 MS. GILDART: I can read that if you would  
3 like?

4 BOARD MEMBER ROBERTI: Please do. Please do.

5 MS. GILDART: Okay. Item number four in the  
6 market development section says,

7 "Product Commercialization. The  
8 product commercialization grants will  
9 target businesses that need  
10 assistance to establish or expand  
11 their products to a commercial  
12 scale. These grants will be aimed  
13 primarily towards developing molded  
14 rubber products per recommendation  
15 number fifteen of the AB 117 report."

16 And that was \$2 million per fiscal year.

17 BOARD MEMBER ROBERTI: In our criteria, what  
18 criteria would you use to, to note that a certain  
19 applicant would be primarily engaged in molded rubber?  
20 I'm trying to think where that was factored in other  
21 than, you know, some initial sense that this is roughly  
22 consistent with what the five year plan is.

23 MS. GILDART: In the project description the  
24 application would lay out what is being proposed, and we  
25 would very easily be able to determine what that activity

1 was.

2 We had not awarded points, though, to lift, if  
3 you will, the molded products above anything else.

4 BOARD MEMBER ROBERTI: Yeah, I got it. My own  
5 thought is that points should have been awarded, that may  
6 not be staff's fault, that may be the problem of setting  
7 up the way the criterias are set up.

8 But it does appear that the five and five isn't  
9 consistent with our five year plan which, unless the  
10 dollars tilt some way, which says that we should aim  
11 primarily toward developing rubber molded products. And  
12 I say this as somebody who believes that we aren't  
13 burning enough tires, because I don't know what else  
14 we're going to do with them. But the fact is that that's  
15 not in the five year plan.

16 BOARD CHAIR MOULTON-PATTERSON: Thank you,  
17 Senator Roberti.

18 Mr. Jones.

19 BOARD MEMBER JONES: Thanks, Madam Chair.  
20 Senator, I mean, I agree with you, I mean, on some of  
21 this. But I'm getting a little confused.

22 I think one of the things we're trying to do is  
23 give the crumb rubber industry, the people that provide,  
24 take a tire and break it down to crumb rubber the  
25 opportunity to expand their businesses so they can meet

1 more demand.

2 This school district has an opportunity when we  
3 give out money for our grants for school running  
4 tracks --

5 BOARD MEMBER ROBERTI: Yeah, I'm not really on  
6 the running track that much, I was just trying to figure  
7 out why it was that a running track which is a molded  
8 rubber product was rejected.

9 BOARD MEMBER JONES: It's only a molded rubber  
10 product if we can find crumb rubber to put it in it.

11 BOARD MEMBER ROBERTI: No, I understand that.  
12 It's more of a molded rubber product than burning, which  
13 I'm not against, which I'm not against.

14 MS. GILDART: Yeah, if I may help you with that?

15 BOARD MEMBER ROBERTI: Yes.

16 MS. GILDART: If someone had applied for monies  
17 to help them in developing the molds and the mixes and  
18 the product that could be used at a school to make a  
19 running track, they would have qualified.

20 We were trying to give monies to the businesses  
21 that produce these products. The application that was  
22 disqualified was the back end.

23 BOARD MEMBER ROBERTI: I totally, I totally  
24 understand, I totally understand.

25 MS. GILDART: Okay.

1                   BOARD MEMBER ROBERTI: But my point is at no  
2 point in the process, and I am not saying it's fair to  
3 say that it's the staff's fault, it could be the fault,  
4 the problem in the criteria not taking, not being more  
5 specifically identified; but, at no point in the process  
6 is that aspect of the five year plan, which I think  
7 governs this program, taken into consideration, to wit,  
8 that these grants should go to molded rubber products.

9                   And I just found it amusing, odd, whatever, that  
10 while we are giving grants to burning, we rejected a  
11 track. And I understand about the front end of the back  
12 end or whatever.

13                  MS. GILDART: Also I've been given some  
14 information by staff, and apparently I'd misspoken. The  
15 last funded application is from Golden By-products, and I  
16 was confusing it with a grant that they had received in  
17 the past where they purchased equipment to produce TDF,  
18 tire derived fuel.

19                  This application was actually to produce crumb  
20 from molded rubber, so that does shift the split to four  
21 fuel or ADF based, ADC based grants to five, six, six  
22 molded rubber ones. It's just that we have one split in  
23 the middle, we only have funding to do part.

24                  BOARD MEMBER ROBERTI: Madam Chair, if I might  
25 continue?

1 BOARD CHAIR MOULTON-PATTERSON: Yes.

2 BOARD MEMBER ROBERTI: In view of the fact that  
3 U.S. Rubber is, is, has a big problem, and it's one that  
4 nobody knew about until Friday, if it would be at all  
5 possible for this, these grants to be rescored, and I'm  
6 just thinking off the top of my head, and that some of  
7 the scoring take into consideration points for what  
8 should be the primary focus, and that is molded rubber  
9 products. It shouldn't be exclusive, but I would think  
10 if it's a molded rubber product they get some points.

11 And that would be in keeping with the five year  
12 plan. And I think we have a perfect out to do it because  
13 we have a problem that nobody knew until late last week.

14 BOARD CHAIR MOULTON-PATTERSON: Okay. Senator,  
15 before we make that determination should we go ahead and  
16 hear our speakers?

17 BOARD MEMBER ROBERTI: Yes.

18 BOARD CHAIR MOULTON-PATTERSON: Tom Faust,  
19 Redwood Rubber.

20 And I'd ask the speakers to try to be brief, we  
21 have a very long agenda today and there's a number of  
22 speakers.

23 MR. FAUST: Thank you, Madam Chairman and Board  
24 members. My name is Tom Faust, CEO of Redwood Rubber.

25 I had a Power Point presentation I was going to

1 give this morning and we're having technical problems, so  
2 if I could address --

3 BOARD CHAIR MOULTON-PATTERSON: And we do have a  
4 copy of it.

5 MR. FAUST: Well if we could go through page by  
6 page, and I'll hold it up so we can be in sync. I'm  
7 sorry for this.

8 This is a molded rubber product company, and we  
9 have a new technology, it's called ultrasonic  
10 devulcanization. And in February of 1999 we applied for  
11 two grants back in 1999, we were only given \$80,000  
12 grants, so because the project was around a half million  
13 plus, almost to a million dollars, you know, we broke it  
14 up and, with different co-partners and split it up. So  
15 we, one was with Lockheed and one was with Bandag.

16 The one with Lockheed as a partner was declined  
17 by the Board, and so we, and the Board approved the  
18 rubber processing system with Bandag.

19 The state to date has paid \$35,000 on that, and  
20 the project is roughly, if you take one and a half  
21 million dollars as the whole project cost, it's  
22 approximately two percent complete.

23 Page two on your diagram shows a sound bubble,  
24 and the sound bubble is passing through waste vulcanized  
25 rubber. And what it does is the sound bubble breaks the



1 links between the carbon and sulfur atoms.

2           The electrical cost for accomplishing that is  
3 roughly around a cent and a half to two cents. The  
4 project is non-polluting. It is, it has been approved  
5 and recommended by the Sierra Club of almost, there's  
6 around fourteen environmental organizations that approve  
7 of this as the highest sustainable recycling concept for  
8 waste rubber, saves energy, okay.

9           So page two, next page is the pilot operations  
10 in Hayward show crumb rubber going into a hopper and then  
11 it goes into extruder, and then it goes out. And it's  
12 missing the ultrasonic unit, that, those funds are  
13 coming.

14           Anyway, so what's, what's been determined, and  
15 then it guess cooled and ventilated and there's a rubber  
16 cooling system. Okay.

17           So now we go to market competitive analysis  
18 page, please. What we learned during that, during just  
19 the token \$35,000 that was spent was that to accomplish  
20 our, our goal to achieve a very inexpensive recycled  
21 product, and my target goal is the total production cost  
22 at eleven cents a pound, you know, there are certain  
23 technical parameters that you have to achieve.

24           One of 'em of our grant required us to use  
25 California crumb rubber in the production. And when we,

1    when we put the California crumb rubber through the  
2    system, it sent, the temperatures were going through an  
3    almost, it was exiting the extruder at around 290 degrees  
4    plus or, and this is even with using cooling systems.

5                So what it does is it shows that, that something  
6    is wrong, and it will affect the cost. So on our own  
7    initiative we imported a new technology, it's called  
8    water jet crumb rubber. And the analogy is, there's one  
9    two crumb rubber companies that are really profitable in  
10   this, in North America. One is Ralph's Rubber in  
11   Vicksburg, Mississippi. They are around a \$20 million a  
12   year company, and they make around \$5 million a year  
13   profit.

14               The other one is up in Canada, NRI Resources, a  
15   wholly-owned subsidiary of Clarevest. And they have  
16   around 70 million to \$80 million in revenue, and they  
17   have around a \$20 million profit line on their, or 10  
18   million, somewhere around there, but anyway.

19               So what I wanted to do is, I used those as the  
20   criteria for what's successful and what's unsuccessful in  
21   promoting recycling technologies. And the Ralph's Rubber  
22   and the Canadian operation are two highly visible, and  
23   all the rest of them are just on the verge of either  
24   bankruptcy or close to it.

25               Let's look at Greman Technologies, an \$18

1 million company, their product is TDF and, on the market  
2 competitive analysis. And if you look over their last,  
3 revenues for the last ten years, they're lucky if they've  
4 made any profits. Almost all of 'em are losses.  
5 Greenman, Titan, Casella-Heights, Landstar, all of these  
6 companies, none of these are producing industrial grade  
7 rubber, and all of 'em are really tipping fees, the  
8 tipping fees generate almost 90 percent of their  
9 revenues.

10 Okay. There is a law that California has to  
11 follow, it's Public Resources Code 40051 -- that's on the  
12 next sheet.

13 And if you look at this law it says, the first  
14 item on the code it says, the Board shall, it's not may,  
15 it uses the word shall, do the following: "Promote the  
16 following waste practices in order priority."

17 One is source reduction.

18 Number two is recycling and composting.

19 And then number three is tire burning or  
20 transformation.

21 And then item B says, "Maximize the use of all  
22 feasible source reduction in the order of priority."

23 So in other words, on this grant criteria that  
24 you're using, you've got to pass through, if you follow  
25 the law, you have to go through, you have to score all

1 the ones higher by law that don't have tire burning.  
2 Tire burning should only, anything that involves tire  
3 burning should only come in as, if you don't have any  
4 other applicant that's doing items one or two on the  
5 agenda. If you give it to then you're not following the  
6 law.

7 So next item I'd like to also, zero percent of  
8 California tires -- go to the next page.

9 Zero percent of California tires are being  
10 manufactured in the state currently. We used to have a  
11 lot of tires manufactured in the state, but generally  
12 it's been the cost of materials --

13 BOARD CHAIR MOULTON-PATTERSON: Mr. Faust, could  
14 you please summarize? We have a lot of speakers.

15 MR. FAUST: Yes. Okay. Well what I'm saying is  
16 that we can, we can change that by lowering the cost of  
17 materials, and like ultrasonic devulcanized rubber would  
18 be a primary molded rubber that's suitable for molded  
19 rubber goods.

20 The last page is economic ways to recycle 32  
21 million California tires on this page. And the lead  
22 caption is, "No need to burn any tires." And we show  
23 eight million being done versus recompounding into new  
24 rubber molded products; ten million into products such as  
25 sheet rubber, molded rubber tires, sheet flooring; and

1     then 11 million into asphalt highways; and then three  
2     million into civil engineering. So here's 32 million  
3     tires, not one of 'em being burnt. It doesn't make any  
4     sense.

5             I recommend that politics has entered the  
6     scoring factor and the teams, and that, that the Board  
7     use an outside academic scoring. We have academic, we  
8     have excellent academic institutions in California, the  
9     finest in the country, like, for example, UC Davis, they  
10    have environmental people; this is an EPA waste that  
11    should be interested in using their talent and resources;  
12    and use them to get an independent review of the thing.

13            Because obviously politics has, seems to me it  
14    has corrupted the scoring process of this particular  
15    grant.

16            BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
17    Faust.

18            MR. FAUST: You're welcome.

19            BOARD CHAIR MOULTON-PATTERSON: Rick Snyder  
20    followed by Gary Matranga.

21            MR. SNYDER: Hi, I'm Rick Snyder of U.S.  
22    Rubber, and I want to talk a little bit about the problem  
23    that we had. And I apologize, I got a real chest thing  
24    going on here, so if I have to take a breather here.

25            We've, like Martha said, we just recently found

1 out about this problem. And it's a small problem that,  
2 it's inexcusable, it's human error. We're not grinders  
3 of tires, we're makers of molded rubber product, and  
4 tires are such a small part of our business that it's  
5 just, it's unbelievable that this happened.

6 We've had, since 1984, I think, with the Waste  
7 Management Board, we've only had one other infraction,  
8 and it was minor, it was when we were doing the new  
9 permitting for the, we changed some of the regulations on  
10 tire storage and that, and that was our other infraction.

11 We, I'll try to explain this, you know, as  
12 quickly as possible what happened.

13 We, in our new manufacturing process, needed a  
14 new building, a new location. We have a minor waste tire  
15 storage permit at our old location in Rancho Cucamonga.  
16 As part of our cooperation with the Waste Management  
17 Board, we really worked hard and we spent a lot of money  
18 to move into a RMDZ zone or recycling market development  
19 zone.

20 And it caused some problems for us because the  
21 County of Riverside wasn't quite ready for us, and so we  
22 had a lot of issues with that. And we also had, I'll  
23 continue to make excuses for my plant manager, but we had  
24 a great amount of difficulty with the County of Riverside  
25 Fire Department for permitting for tires. And we were,

1 we were in constant contact with the Waste Management  
2 Board, the enforcement department.

3 Riverside was trying to categorize the tires as  
4 a hazardous waste, which we had already signed our lease  
5 which would have been an enormous expense and we couldn't  
6 have moved.

7 So in his defense we, we went through all these  
8 problems with these tires, with our tire pile which  
9 wasn't even in Riverside, it was in Rancho Cucamonga, and  
10 we got an actual fire plan for our tire storage from the  
11 County of Riverside, it's stamped and approved and  
12 Riverside voted on it.

13 So anyway, the way it went down was we started  
14 our move right around the first part of September.  
15 Everything, it was a really difficult move. The company  
16 had not moved before, we, it was -- the next couple of  
17 weeks we're moving all this heavy equipment and  
18 everything, and then to compound everything you got this  
19 situation in New York, and it was just a human oversight.

20 And we, I want to emphasize again that we are a  
21 maker of molded products, we're not a grinder or  
22 anything. We have no motivation whatsoever to be  
23 carrying tires all around. We make a beneficial product  
24 that's one tenth of our business that's made from tire  
25 strips, and I think, if I'm not mistaken, we're the

1 biggest user of bias ply truck tires in the whole state.  
2 Otherwise these tires would go right into the dump. But  
3 that's the tires that came into question.

4 And he, he was mistaken in two ways. He  
5 thought, number one, that the permit was transferrable,  
6 which it wasn't.

7 And number two, he had taken and cut the tires  
8 in half and taken the bead out of the center of the tire,  
9 and he thought he had, under the law he thought he had  
10 changed the configuration of them enough for them not to  
11 be considered as a tire anymore, which we found out  
12 yesterday at around 2:00 p.m. that that wasn't true.

13 So this is, this whole thing has kind of  
14 blind-sided us, and I just want to really emphasize how  
15 much, you know, we've tried to cooperate with the Waste  
16 Management Board.

17 It's a very small part of our business, and  
18 we're not, these tires were sitting right out in the  
19 middle of our yard, there was no hanky panky, they're  
20 there. We thought we were in, within the regulation, and  
21 we weren't. And I gotta make a, you know, a plea for you  
22 guys' consideration on that, because this was a human  
23 mistake. He thought he was complying with the law, he  
24 wasn't.

25 And it's so minute that it's amazing. But I



1 understand your guys' position here where everybody's  
2 trying to get their share of the pot.

3 But U.S. Rubber as a company is probably the  
4 most sophisticated molder in the whole state right now,  
5 and I think it would be a real disservice to us with our  
6 past history with the Waste Management Board and with  
7 everything that we've got going on and how hard we've  
8 worked, to just arbitrarily knock us off the list for  
9 something that was just human error.

10 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
11 Snyder.

12 While you're up here, does anyone, any Board  
13 member have a question?

14 Mr. Jones.

15 BOARD MEMBER JONES: Just real quickly and it's,  
16 I probably ought to address it to Martha.

17 Prior to 876 if they would have altered those  
18 tires by cutting out the beads and cutting them in half,  
19 would they have been out of the --

20 MS. GILDART: It still would have been a waste  
21 tire, you know, altered waste tire. So they would have  
22 been required to have a permit.

23 BOARD MEMBER JONES: Okay. That was prior to  
24 that? I thought that we included that in 876.

25 MS. GILDART: Actually in 876 we included a

1 definition of tire derived product that says that a tire  
2 that's been processed, you know, by cutting, slicing,  
3 shredding in some way, sold and removed from the site of  
4 processing, falls out of the definition of waste tire.

5 If these tires had been purchased elsewhere and  
6 moved to their site there might have been an exemption  
7 that we could give, but that was not my understanding.

8 MR. SNYDER: Some had, but the majority had not  
9 been.

10 BOARD MEMBER JONES: Right.

11 BOARD MEMBER ROBERTI: I didn't understand.

12 MS. GILDART: Under 876 there's a new definition  
13 trying to, that was put in by the legislature to try and  
14 help the tire recycling industry. And it's waste tire --  
15 I'm sorry, tire derived product is the term, tire derived  
16 product. And it's defined as a waste tire that has been  
17 processed, sold, and removed from the site of processing.

18 For instance, if you were to buy shredded tires  
19 to use as loose fill in a playground, those tires sitting  
20 under the swing set, that shredded tire is not a waste  
21 tire and would not require a permit from this Board.

22 So we were trying to help those who made  
23 products from tires that were not, you know, remolded or  
24 reconfigured, and it had to be processed, sold, and  
25 removed from the site of processing.

1                   BOARD MEMBER ROBERTI: What's the difference  
2 between that and this case?

3                   MS. GILDART: He's doing the processing on-site.  
4 He hasn't sold them and taken them elsewhere.

5                   BOARD MEMBER ROBERTI: So this, at some point  
6 under regulations he has a waste tire on site?

7                   MS. GILDART: Yes, an altered waste tire, a  
8 waste tire that has been cut up merely is still  
9 considered a waste tire and it's part of what we count in  
10 our storage and permitting requirements.

11                  BOARD MEMBER ROBERTI: Under 876 the tire is cut  
12 up somewhere else and brought on site?

13                  MS. GILDART: Sold and then brought on site,  
14 yes.

15                  For instance, if you were to take the bead wire  
16 off of a tire and cut it, flatten it out, sell it to  
17 somebody who then nailed it down to his, you know, marine  
18 dock for footing, that's a product because it's been  
19 processed, sold, and removed from the site of  
20 processing. It's not a waste tire when it's nailed down  
21 there on that dock.

22                  However, when you're at the site where it's  
23 being cut up and processed and it has not yet been sold,  
24 then it's still counted as a waste tire.

25                  BOARD MEMBER ROBERTI: And the witness also

1 spoke to the issue of a permit being transferrable, what  
2 was that?

3 MS. GILDART: He has a permit for his old site  
4 in Rancho Cucamonga. Under --

5 MR. SNYDER: And we're still paying rent there.  
6 It's been very difficult to lease that building out now  
7 since the recession has really slammed down on us, so we  
8 have a viable permit there in Rancho Cucamonga.

9 MS. GILDART: And it can't just be moved to a  
10 new location, they have to actually submit an application  
11 for a new permit, which I understand they're in the  
12 process of doing, but we have not yet received that  
13 application.

14 BOARD CHAIR MOULTON-PATTERSON: Any other  
15 questions before Mr. Snyder sits down? We still have  
16 other speakers.

17 BOARD MEMBER JONES: Just quickly, Madam Chair.  
18 It is in an RMDZ loan area. So you moved into an area  
19 that supports another one of our programs.

20 MR. SNYDER: Yes. And also, one other thing.  
21 Our existing permit in Rancho Cucamonga, this problem is  
22 so minute that we could literally pack these tires in a  
23 truck and be in compliance in like an hour. As a matter  
24 of fact, I think at this moment we are because we just  
25 found out about it yesterday. So we're the emperor

1 without his clothes. We had no intention to violate any  
2 code, we were just, it's human oversight and I just, you  
3 know, I'm here.

4 BOARD CHAIR MOULTON-PATTERSON: Thank you for  
5 coming, Mr. Snyder.

6 MR. SNYDER: Okay. Thank you.

7 BOARD CHAIR MOULTON-PATTERSON: Gary Matranga.

8 MR. MATRANGA: Good morning. I'm passing out  
9 some papers that's better written than me speaking. I  
10 can be real short.

11 I feel that under the criteria of the grant  
12 program, that the scoring wasn't done in a manner that  
13 was suitable.

14 The main, one of the main requirements for the  
15 grant was diversion, and our grant proposal definitely  
16 shows over two million plus tires in diversion that  
17 otherwise will wind up in, land up in landfills. And I  
18 don't think the credit was due on the scoring properly  
19 for the two, we had two viable products that had a  
20 diversion that was over two million tires.

21 That's, I'll just make this thing real short and  
22 sweet. I'd just like to ask the Board to reconsider and  
23 to rescore this with the right information to the Board.  
24 I don't feel that staff relayed the right information on  
25 the scoring related to our products.

1               BOARD CHAIR MOULTON-PATTERSON: Thank you very  
2 much, Mr. Matranga.

3               Gary Karr? It's unclear, I'm not sure if it's  
4 Kerr or --

5               MR. KERR: It's Kerr.

6               BOARD CHAIR MOULTON-PATTERSON: Kerr, okay.

7               MR. KERR: No problem. Yeah, Madam Chairperson  
8 and members of the Board, thank you, each one of you for  
9 your time.

10              Obviously you know my name, and I'm from West  
11 Coast Rubber Recycling, and I'll just make it quick, it  
12 will take even less than three minutes.

13              I'll give you a little quick background about  
14 our company. We're a small business out of Santa Clara.  
15 We were formerly Gary's Tire Disposal, and we've been  
16 recycling, we're recycling now. For over two and a half  
17 years we've created twelve new jobs for the community,  
18 and let alone diverted 125,000 tires from the landfill  
19 this year alone.

20              I thought that we were a perfect candidate for  
21 this grant. My partner and I, we're fired up about tire  
22 recycling, and we're out there, we're making a big  
23 difference right now in the south county in Santa Clara.

24              Right now we're a manufacturer of twelve inch  
25 minus ground rubber for playgrounds. We've installed in

1 five different schools in the Bay Area, for horse arenas,  
2 and now produce approximately two tons of crumb rubber at  
3 thirty minus. Which, of course, Mr. Jones wants to see  
4 more crumb rubber out there, and we've sold every pound  
5 of rubber recycling from these tires that we've produced,  
6 every single pound. Right now we have a two week wait  
7 and up to a one month just for demand for our products.

8 And we definitely like to know why a lot of  
9 these, being that -- in fact, Mr. Roberti had mentioned  
10 that for this it should, the grant program, it should go  
11 for the molded products and the people making the  
12 products for sale.

13 We noticed that 90 percent of the allotted money  
14 went to TDF, ADC, and most Southern California places.  
15 You notice there's no one up here in Northern California  
16 with these grants. And instead of it going to the larger  
17 places and the larger businesses, this is what we fight  
18 for, the small business.

19 And we also, we do know, of course, that not all  
20 tires can be recycled. I mean yes, there are those that  
21 have to be burnt, they are fiberglass, they're full of  
22 dirt, there's not much you can do with 'em. And of  
23 course, there's always a place for TDF and everyone needs  
24 the fuel, but we'd sure like to see you put forth this  
25 and the money to businesses like ours, the small business

1     that are making it, that are making a difference out  
2     there that are applying for this grant not just to cover  
3     up trash, not just to burn.

4             BOARD CHAIR MOULTON-PATTERSON: Thank you very  
5     much for coming.

6             MR. KERR: Thank you.

7             BOARD CHAIR MOULTON-PATTERSON: Murray Quance.

8             MR. QUANCE: Good morning. My name is Murray  
9     Quance, I'm the president of the Environmental Molding  
10    Concepts. We're located down in San Bernardino,  
11    California.

12            I'd just like to make a couple of brief comments  
13    that I believe are appropriate relative to the discussion  
14    here to the Board members and those in the audience.

15            I believe our company fits into the conversation  
16    this morning quite appropriately. We have been in the  
17    tile business manufacturing molded goods since 1997.  
18    It's a tremendously competitive and difficult business.

19            The last three years we have managed to triple  
20    our sales from the last three years, and such to the  
21    point that we will do about 1.3 million this year.

22            But rather than thinking about where we are, the  
23    question is where we're going. One of the major  
24    competitors right now has openly advised my  
25    representatives that they sold \$2 million worth of



1 playground tiles in California this very year.

2 And in fact, I know of a \$700,000 contract that  
3 was awarded to Soft Tile from Canada in San Diego which  
4 we lost quoting at our cost as the kind of competition  
5 we're up against.

6 So basically I'm just asking that if this does  
7 get reopened, you consider our policy.

8 I have agreements with the two largest  
9 manufacturers of playground equipment in Northern  
10 America, Game Time and Miracle, and we're working very  
11 hard with them. But if we do not have investment that  
12 will keep us competitive and can beat strong competition,  
13 we will really forego a great opportunity, in my  
14 judgment, to reuse California tires rather than landfill  
15 them.

16 Thank you.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
18 Quance.

19 Before we go back to the Board, I understand Ms.  
20 Tobias and Mr. Leary wanted to address us.

21 MR. LEARY: Just, Madam Chair, I just wanted to,  
22 as the former Deputy Director of the Special Waste  
23 Division when these criteria were brought before the  
24 Board back in April, I don't know if it would be useful  
25 to put into context some discussion of the five year

1 plan, and why we might have varied from the five year  
2 plan when we put the criteria together.

3 For criteria number eight we placed a large  
4 value on, in attachment one, evidence of market potential  
5 to absorb or commitment to purchase the products produced  
6 and the number of tires processed.

7 And back in April the five year plan had been  
8 blessed by the Board, but we weren't sure we were going  
9 to get 876 money through the budget process.

10 We were about to face an energy crisis, and much  
11 concern was being raised by the administration and by the  
12 legislature about the shortage of megawatts production in  
13 the State of California.

14 So I think what we did was kind of, in staff's  
15 defense and as well as defense of the Board's  
16 decision-making, try to identify criteria as broadly as  
17 possible to; one, get tires out of landfills; and two, to  
18 do what little bit we could to contribute to the  
19 resolution of the energy crisis.

20 And so the result was that the criteria, I  
21 think, were written fairly broadly, and maybe diverted  
22 from their primary prospective in the five year plan,  
23 that is molded rubber products, to address these other  
24 concerns as we launched the 876 tire program forward.

25 So I just wanted, I wanted to kind of add that

1 context and speak in defense of the Board's  
2 decision-making back in April because we were in a little  
3 bit of a different place.

4 That's not to say the Board can't do anything  
5 they want to at this point with this grant program, but I  
6 just wanted to refresh the Board's memory about the  
7 decision-making process we were involved in back in  
8 April.

9 Thank you.

10 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
11 Leary.

12 You have to no comment?

13 LEGAL COUNSEL TOBIAS: (Shook head.)

14 BOARD CHAIR MOULTON-PATTERSON: Okay. Who would  
15 like to speak to this?

16 Mr. Eaton.

17 BOARD MEMBER EATON: I'd just like to find out  
18 what our options are from a perspective procedurally  
19 without any value in mind. Is it proper to rescore? Is  
20 it proper to have to go out to, you know, redistribution  
21 of the RFP? What are the options that are available to  
22 the Board?

23 BOARD CHAIR MOULTON-PATTERSON: Ms. Gildart.

24 MS. GILDART: The options obviously are to  
25 approve the granting as recommended by staff with one of

1 the three options presented on the U.S. Rubber issue.

2 Another possibility is that the Board can direct  
3 staff to reexamine the existing applications as to  
4 whether there were any variations in the scoring that had  
5 not yet been accounted for.

6 And a third option, and I think that's what I  
7 heard earlier in reference to the molded rubber issue, is  
8 to actually re-notice the grant to say that the criteria  
9 and points need reconsideration to reflect the molded  
10 rubber product, and a new application period begun, and a  
11 new set of applications scored under those criteria.

12 So I think those are pretty much the three  
13 options available.

14 BOARD CHAIR MOULTON-PATTERSON: Just a quick  
15 question on that last one. How long would that take,  
16 approximately?

17 MS. GILDART: It would probably take four to  
18 five months I would say.

19 BOARD CHAIR MOULTON-PATTERSON: Okay. Were you  
20 finished, Mr. Eaton?

21 BOARD MEMBER EATON: Yeah, I was just trying to  
22 procedurally find out what --

23 LEGAL COUNSEL TOBIAS: Madam Chair, I would  
24 suggest there is another option in terms of dealing with  
25 the Board's existing options and the Board's interest in

1 the molded rubber. But if you want to look at that  
2 option, I'd like to address you in closed session.

3 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank  
4 you.

5 Mr. Jones.

6 BOARD MEMBER JONES: I think that, I think Mr.  
7 Leary, going back in history a little bit, that was  
8 valuable. I think we did, as a Board, adopt a loose  
9 criteria to deal with what was the unknown.

10 I do have a, I don't have a problem with U.S.  
11 Rubber, we have been put in a tough situation. You know,  
12 personally, everytime we do grants there's one thing  
13 consistent about grants, those that don't get 'em object.  
14 And that is a constant.

15 That's why we're lucky enough with this program  
16 to have a series of grants that are going to go out every  
17 year, which is going to give people a bite of the apple  
18 every year, where we did not have that ability when we  
19 were operating with \$2 million.

20 So I would, I wouldn't, I'm sure some members  
21 still want to speak, but I would be inclined to move  
22 this, move this resolution with these awards and let,  
23 award to U.S. Rubber, but tell U.S. Rubber they don't get  
24 it until they're in compliance.

25 BOARD CHAIR MOULTON-PATTERSON: Okay. We do

1 have a few more that want to speak and I'll come back to  
2 you.

3 I think Senator Roberti was next, and then Mr.  
4 Paparian.

5 BOARD MEMBER PAPARIAN: Thank you. I'm not  
6 ready to vote for it yet. I think if you look back at  
7 the transcript for April you wouldn't find that there was  
8 a discussion of deviating from the five year plan, I  
9 think there was something presented to us about promoting  
10 the commercialization of new and existing product  
11 manufacturing using significant quantities of tire  
12 derived rubber.

13 When we spoke this morning, I mean staff was  
14 very clear this morning that we shouldn't be deviating  
15 from the terms of the five year plan, yet I really feel  
16 that this item in the way that it's allocating funds is,  
17 in fact, deviating from the five year plan.

18 So I'm just not ready to vote out this item  
19 until we figure out a way to fix that and assure that the  
20 money primarily is going to molded rubber products.

21 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
22 Paparian.

23 Senator Roberti.

24 BOARD MEMBER ROBERTI: Yes, Madam Chair. I  
25 don't know what we'll find if we review the transcript of

1 April. I think we ought to review it, though, to know  
2 just what the Board's directive was at that time.

3 I do know that it was on our minds the use of  
4 rubber products to energy, but I do not know if it came  
5 up in this specific proposal.

6 There does appear to be a digression from the  
7 five year plan. I will say that the major problem is in  
8 the criteria that the Board itself has written, because  
9 we don't, we do not specify any place for molded rubber  
10 products.

11 So I'm not prepared to vote for it at this  
12 time. I would like to review the past transcript.

13 In addition, I would like to make two other, two  
14 other remarks. And I don't know to what extent these  
15 things are considered, but it's a problem with the  
16 criteria that was established as well, and I guess we're  
17 just sort of rethinking what we had already voted on.

18 But I don't know if there is a place, and maybe  
19 Ms. Gildart can help me on this, where we take into  
20 consideration the biggest bang for the buck, the most  
21 potential use or reuse of tires for the amount of money  
22 that we will be spending. Because the whole idea is to  
23 reuse numbers of tires.

24 And the second point is that, along the lines of  
25 some of the critiques that some of the applicants have

1 raised, and I'm not saying that, you know, because a  
2 person raises a critique he's necessarily right; but do  
3 we take into consideration, or is there a place to take  
4 into consideration creativity, for lack of a better  
5 word?

6 Sometimes entities with, with the most,  
7 sometimes the strangest looking configurations or  
8 proposals, and aren't necessarily tried and true might be  
9 rejected. And I'm not saying that that's what's  
10 happening, but I do sense that maybe that's an underlying  
11 concern on the part of some of those who are unhappy with  
12 the scoring criteria or the criteria that's come up.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you,  
14 Senator.

15 I think with --

16 BOARD MEMBER ROBERTI: Maybe Martha could  
17 address --

18 MS. GILDART: I think there was a question in  
19 there.

20 BOARD MEMBER ROBERTI: Yeah.

21 BOARD CHAIR MOULTON-PATTERSON: Oh, go ahead.

22 MS. GILDART: If you go back to the AB 117  
23 workshops that we conducted about two, two and a half  
24 years ago where the Board had been directed to analyze  
25 its program and come back with recommendations that then



1     formed the basis for SB 876; at that point the industry  
2     expressed concerns that the molded rubber products would  
3     never be a large portion of the market to consume waste  
4     tires. The feeling was that there were other processes  
5     that would use more tires for less money.

6             Part of the Board's decision-making to support  
7     molded rubber by providing some monies in grants was to  
8     try to overcome those barriers.

9             At the same time there were issues regarding  
10    needing to expand the recycling and use of waste tires.  
11    And the feeling was that there were more than just molded  
12    rubber businesses that could be supported by the Board's  
13    monies.

14            As far as the innovative side of it, we have  
15    done some of that in the past. We have given grants to  
16    projects that range from marine sanctuary reefs and  
17    pyrolysis and devulcanization.

18            And unfortunately, the more innovative ones seem  
19    to be the ones that have more of the problems to get  
20    underway and to be carried out successfully. I think in  
21    any kind of research oriented project you do run that  
22    risk, you know. Part of what you learn is that that  
23    didn't work.

24            So in this one I think we were being a little  
25    bit more conservative in our outlook.

1           And Shirley here is also pointing out that under  
2   the budget we do have a demonstration that the project is  
3   cost-effective in relation to the wastes being targeted,  
4   and that the expenses are reasonable.

5           So in some instances some of these more  
6   innovative ones might have greater expenses.

7           BOARD CHAIR MOULTON-PATTERSON: I know Mr.  
8   Medina wants to speak also, but I think at this point I  
9   would certainly suggest that we hear, since there are  
10  legal problems, hear after lunch all, so we know all of  
11  our alternatives, we meet in closed session.

12          Mr. Medina.

13          BOARD MEMBER MEDINA: Madam Chair, I just wanted  
14  to say that I don't feel comfortable voting for this at  
15  this time, there's just too many unanswered questions,  
16  and not having an opportunity to review these issues in  
17  great detail.

18          BOARD CHAIR MOULTON-PATTERSON: Would it be best  
19  to trail it or to just continue it at this time, Ms.  
20  Tobias, from a noticing point of view and all?

21          LEGAL COUNSEL TOBIAS: Well, I think if you want  
22  to go into a closed session after lunch, you might want  
23  to do that just so I can run through the options with you  
24  and then the Board can come out and decide whether it  
25  wants to trail it, whether it wants to bring it back in

1 December or any other choices. So --

2 BOARD CHAIR MOULTON-PATTERSON: Okay. With that  
3 said, if everyone's in agreement we will take our lunch  
4 break now.

5 It's 12:30, we'll be back in closed session at  
6 1:45. Will that give everybody enough time?

7 Thank you.

8 (Thereupon the luncheon recess was taken.)

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1 AFTERNOON SESSION

2 --oOo--

3 BOARD CHAIR MOULTON-PATTERSON: I'd like to  
4 call our meeting back to order, please.

5 Ex-partes, Mr. Eaton.

6 BOARD MEMBER EATON: Yes, I happened to go  
7 through the usual suspects row out front, contrary to my  
8 normal direction, and had the following ex-partes a meet  
9 and greet with Jeannie Cane.

10 Quick meet and greet with Bob Houston regarding  
11 the C and D regulations on today's agenda.

12 A quick hello to Mark Aprea who in thirty  
13 seconds or less managed to talk both about C and D and  
14 ADC.

15 Kelly Astor with his usual insightful greeting.

16 And George Larson with regard to the item on the  
17 award, and I believe that we spoke about the tire  
18 commercialization grants.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
20 Eaton.

21 Mr. Jones.

22 BOARD MEMBER JONES: Madam Chair, with Mr. Kerr  
23 from Gilroy earlier, I told him to go ahead and testify.

24 George Larson.

25 The folks from Orange Avenue Disposal that have

1 a permit up.

2 Judy Ware, Jim Briscoe, Charlotte Ginn, and Mr.  
3 Matranga, and Mr. Michael Byrne.

4 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
5 Jones.

6 Mr. Medina.

7 BOARD MEMBER MEDINA: Yes, Mr. Tom Faust from  
8 Redwood Rubber.

9 BOARD CHAIR MOULTON-PATTERSON: Okay, Mr.  
10 Paparian.

11 Thank you.

12 BOARD MEMBER PAPARIAN: Thank you. I spoke with  
13 George Larson regarding the tire commercialization  
14 grants.

15 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.

16 BOARD MEMBER ROBERTI: Yes, I spoke with Kathy  
17 Fletcher regarding Waste Board legislation on paint and  
18 antifreeze.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you. And  
20 I spoke with no one.

21 We had another speaker slip come in. We're back  
22 on number, what's the number? 24. And I believe we had,  
23 we had finished our public comments, but then there's one  
24 other comment that just came in, so we'll go ahead and  
25 hear from Mr. Larson.

1           MR. LARSON: Thank you, Madam Chair, members. I  
2 did not elect to speak earlier because at that time it  
3 was at least staff's recommendation, and it was looking  
4 pretty good for my client, Lakin Tire, who was  
5 recommended for funding. And I found over the years, my  
6 experience is it's wise to keep your mouth shut when  
7 you're already recommended for funding.

8           However, given the nature of the discussions and  
9 the closed session that may lead to some change in that,  
10 I'm here just to make my pitch that we feel at Lakin Tire  
11 that we responded in the spirit and intent of the way the  
12 process was pursued.

13           The criteria that were developed in April that  
14 Mr. Leary referred to were rather broad in their context  
15 and provided the opportunity for some broad ranging  
16 thinking, if you will, on making proposals.

17           The notice of funds available, which only has a  
18 specific criteria for the ability to divert 250,000 or  
19 more tires, guided us in terms of what we selected to  
20 make application on.

21           In fact, we did consider a molded rubber  
22 products proposal and opted for this because we were  
23 going to move a million tires out of the waste stream  
24 utilizing the approach, the machinery, and the technology  
25 we applied under.

1           I just feel that it's, at this date, although  
2   conditions may have changed since April, these were the  
3   running rules that we were out of the gate with.

4           I feel if the Board feels the priorities have  
5   changed today, then change the priorities for the next  
6   cycle of the commercialization grant, and allow those who  
7   have been recommended based upon the rules that you put  
8   forth to be considered, as staff have recommended, for  
9   funding.

10          Thank you.

11          BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
12   Larson.

13          Were there any final staff comments? You  
14   finished.

15          Okay, I'll open it up to Board members.

16          BOARD MEMBER JONES: Madam Chair.

17          BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

18          BOARD MEMBER JONES: I'll move adoption of  
19   Resolution 2001-435 to fund up to \$2 million including  
20   U.S. Rubber as soon as they get back into compliance.

21          BOARD CHAIR MOULTON-PATTERSON: Okay. Mr. Jones  
22   makes a motion, there's no second.

23          What is the sense of the Board? Mr. Eaton and  
24   then Senator Roberti.

25          Senator Roberti, Mr. Eaton yields to you.

1               BOARD MEMBER ROBERTI: Well Madam Chair, I would  
2   hope that the staff returns to us for next month's  
3   meeting with a set of criteria emphasizing the use of  
4   molded rubber as the primary object for grants in this  
5   area. And I think that is a gleaning, to some extent,  
6   the consensus of conversation during the hearing of Board  
7   members.

8               For my own part, I would like the criteria to  
9   make some attempt to specify more than what is apparent  
10   in the written documentation; innovation and maximum  
11   utilization of the grant money to achieve the greatest  
12   amount of recycling and reuse of tires.

13              And I take to heart some of the points which Ms.  
14   Gildart indicated in her testimony, that sometimes these  
15   things work at cross purposes. But nevertheless, we  
16   should make an attempt to deal with both of them and have  
17   the Board make a decision when the criteria is presented  
18   so it's before us.

19              BOARD CHAIR MOULTON-PATTERSON: Thank you,  
20   Senator.

21              Mr. Eaton.

22              BOARD MEMBER EATON: And I was just wondering,  
23   because I think that there's, if we could, it's unusual  
24   but is there a way that we at that same time, it's going  
25   to be brought back, Senator, you said next month is when



1     you would like to have it back?

2                 BOARD MEMBER ROBERTI:   Hopefully next month.

3                 BOARD MEMBER EATON:   Next month.   If we could  
4     have some discussion and/or at least preliminary draft of  
5     the NOFA, because that seems to be part of my concern.  
6     And I speak for others, that there be some consistency  
7     between what is in the plan as discussed this morning.

8                 BOARD MEMBER ROBERTI:   Absolutely.   Yes,  
9     absolutely.

10                BOARD MEMBER EATON:   I know it's unusual, we  
11     don't usually get involved in the NOFA, but it might be  
12     helpful with this one because there has been a great deal  
13     of discussion on it, if it's possible a draft that we  
14     might be able to look at, not that we would approve, but  
15     just for consistency purposes.

16                That's from my perspective.

17                BOARD CHAIR MOULTON-PATTERSON:   Mr. Paparian.

18                BOARD MEMBER PAPARIAN:   Yeah, thank you, Madam  
19     Chair.

20                I think that's an excellent suggestion, because  
21     I think what, what happened here from my perspective is  
22     that we had something that was said in the tire plan and  
23     something that was said in the Board meeting on April  
24     24th and 25th; and then, in my view, something different  
25     came out in the NOFA.

1                   And I was actually the maker of the motion back  
2   in April, and I thought I understood what this money was  
3   going to be used for primarily, and find that it's  
4   winding up being used for some different purposes.

5                   So I think it's good to come back in December.  
6   I think it's good to have the draft NOFA so that there's  
7   no question about what direction we're going with this.

8                   And hopefully this will be our only kind of  
9   false start as we're implementing this new tire program.

10                  But to the folks out there who are frustrated  
11   because either your grants didn't get funded or because  
12   you're in kind of a limbo area right now, all I can say  
13   is, you know, bear with us and keep trying. You know,  
14   it's not a reflection on any individuals, in my view,  
15   project or application that we're doing here today.

16                  BOARD CHAIR MOULTON-PATTERSON: Mr. Jones, and  
17   then Senator Roberti.

18                  BOARD MEMBER JONES: Thank you. Since my motion  
19   failed, I hope we can take all of the proposals that were  
20   sent in and send 'em back to the proposers so that they  
21   have their documents back within the next couple of days.

22                  BOARD CHAIR MOULTON-PATTERSON: Okay.

23                  BOARD MEMBER JONES: And I think what I heard  
24   the Senator saying is that this grant is going to be  
25   looking at the machinery, the infrastructure, that it's

1 either going to create crumb or mold, be the apparatus so  
2 they can mold products.

3 BOARD MEMBER ROBERTI: Yes.

4 BOARD MEMBER JONES: Is that accurate?

5 BOARD MEMBER ROBERTI: Yes. I think we can, I  
6 think we can broadly interpret the five year plan as long  
7 as it deals with molded rubber which, of course, includes  
8 crumb.

9 BOARD MEMBER JONES: Okay. And I just wanted  
10 that to be clear so our staff had that.

11 BOARD MEMBER ROBERTI: As well as the rock  
12 material.

13 BOARD MEMBER JONES: Okay. Thanks.

14 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti,  
15 did you have something additional?

16 BOARD MEMBER ROBERTI: Yes. I think if staff  
17 could come back also with how we should deal with the  
18 issue of an applicant who has a violation, give us some  
19 options.

20 Speaking for my own part and hearing the  
21 witness, and I'm not saying this should be any indication  
22 of how I would vote on that matter; but I was sort of  
23 sympathetic to the problem that he was faced with, but at  
24 a loss at what to do with it because once you make an  
25 exception in an area like this we can be fraught with

1 peril for trying to make a subjective judgment as to who  
2 uses or abuses the system. So on that we would like some  
3 help from staff, especially on how we've dealt with those  
4 situations in the past.

5 LEGAL COUNSEL TOBIAS: Madam Chair, could I  
6 comment on that?

7 BOARD CHAIR MOULTON-PATTERSON: Certainly.

8 LEGAL COUNSEL TOBIAS: I do think we need to  
9 provide the Board with some information on that and get  
10 some guidelines on that.

11 I'd like to ask that we perhaps come back in  
12 January on that. It has broader implications because it  
13 will apply to all the different programs where there's,  
14 in this situation, and we don't have the urgency with  
15 that particular issue than we do with getting the NOFA  
16 out.

17 Agenda items are due Monday, and we'd have a  
18 hard time putting something together by Monday. So if we  
19 can come back in January?

20 BOARD MEMBER ROBERTI: Sure.

21 LEGAL COUNSEL TOBIAS: Thank you.

22 BOARD CHAIR MOULTON-PATTERSON: Okay. Staff, I  
23 hear consensus that we issue a new NOFA, start the  
24 process over in December. Applications will be returned  
25 to the applicants, and other materials will be retained

1 while the Board continues the deliberative process. Did  
2 I capture it?

3 BOARD MEMBER JONES: (Nodded head.)

4 BOARD CHAIR MOULTON-PATTERSON: Thank you.  
5 We'll move on to item 25.

6 MS. GILDART: Item 25 will be presented by Lynn  
7 Lindart who is the supervisor for the Waste Tire  
8 Diversion Section.

9 MS. LINDERT: Good afternoon, Madam Chair and  
10 members of the Board. I'm short. I'm here this  
11 afternoon to present the recommendations for awards for  
12 the local government waste tire public education and  
13 amnesty day grant awards.

14 For a little background. The total funding  
15 available for this program for fiscal year 2000-2001 is  
16 \$500,000 as approved in the five year plan. Page  
17 fourteen of the five year plan describes the amnesty day  
18 program historically and currently, and page 21 of the  
19 five year plan presents the budget allocated for the next  
20 five years.

21 This amount of \$500,000 that's available is an  
22 increase of a hundred thousand dollars from the \$400,000  
23 that the Board allocated in fiscal year 1999-2000. As  
24 you remember, this was the last year the grants were  
25 awarded because we didn't award them last year because we

1 really didn't have money.

2           Although the Board has awarded 68 amnesty day  
3 grants from fiscal year 1992-'93 to 1999-2000, this is  
4 the third cycle for this grant program as a separate  
5 grant program.

6           Historically it was awarded back in the early  
7 days of the tire program as part of the tire grants, it  
8 was not a separate grant program.

9           In fiscal year '98-'99 sixteen grants were  
10 awarded for a total of \$176,543.

11           And in fiscal year 1999-2000, the Board awarded  
12 26 grants for a total of \$374,043.

13           This year the maximum amount of the grant awards  
14 is \$20,000. And the Board reduced the match from an  
15 equal amount to, of the grant award requested, to 50  
16 percent of the amount requested this time.

17           Applicants need to address both the educational  
18 component and the amnesty days tire collection component  
19 in the proposed projects to be funded.

20           The Board approved the criteria at its March,  
21 2001 meeting. The agenda item, as you remember, for this  
22 grant program was the first one that morning, and the  
23 Board did spend a great deal of time, I think it was  
24 about an hour and twenty minutes, looking at the  
25 criteria. And we, and you added quite a few new program

1 criteria to that, as well as changing the points that the  
2 grant managers, grant manager proposed.

3 The criteria and points are in attachment one,  
4 and the points the Board assigned are as follows:

5 Need, 25 points; objective, fifteen points;  
6 methodology, ten points; evaluation, five points; budget,  
7 five points; completeness, letters of support, and  
8 experience, five points; evidence of a recycled  
9 purchasing policy or directive, ten points; program  
10 criteria, recycling program, five points.

11 Tire disposition, and we spent quite a bit of  
12 time during the Board meeting doing that, determining the  
13 points on that; fifteen points were for reuse and  
14 recycling; seven points for energy recovery; three points  
15 for use such as ADC at the landfill; two points if the  
16 applicant can justify that there are no other uses for  
17 tires other than disposal within a reasonable distance;  
18 and zero points for landfill disposal with no  
19 justification.

20 The cost per tire was five points; and special  
21 production cost, that is that they demonstrate that their  
22 production of public relations material such as ads in  
23 the newspapers or brochures are in multi-lingual, that  
24 they are produced in more than one language, five points.

25 And there was an environmental justice criterion

1 added. Grant proposal demonstrates local government's  
2 plan to include projects in low income and/or underserved  
3 communities, five points.

4 So the total possible score for a perfect  
5 application was 110 points. Staff mailed the notice of  
6 funds available to more than 3,000 potential applicants  
7 in April, 2001. Applicants were mailed as soon as they  
8 were requested starting in May, 2001.

9 The question and answer period was scheduled  
10 from May to June 29, 2001.

11 The date the completed applications had to be  
12 postmarked was July 27.

13 One team scored all the applications, and the  
14 post scoring review team reviewed three passing  
15 applications within the 77 to 80 points. There were no  
16 applications within the three points below the 77 passing  
17 mark.

18 Passing score was 77; 70 percent of the 110  
19 possible points.

20 The 22 applications that passed had scores  
21 ranging from 103 to 78 points. The three applications  
22 that did not pass had scores ranging from 64 to 44.

23 I'd just like to mention that the grant cycle  
24 did not have a north-south split requirement, however  
25 staff provides the following information.



1           Twelve passing projects are from Southern  
2   California, 54.5 percent of the passing projects; and  
3   then projects are from Northern California, 45.5  
4   percent. So that was a fairly good split.

5           BOARD MEMBER ROBERTI: Where do we draw the  
6   line?

7           MS. LINDERT: It's --

8           BOARD MEMBER ROBERTI: That straight line across  
9   it?

10          MS. LINDERT: Yeah, the obvious straight line.  
11   If you look at the map it just goes a little bit zig zag  
12   right across, yeah.

13          As I mentioned, attachment one presents the  
14   criteria for this grant cycle.

15          Attachment two lists the projects, the amount  
16   requested, the match, and the total project amounts in  
17   order of descending scores, for both the passing projects  
18   and those that did not achieve a passing score.

19          Attachment three provides projects, descriptions  
20   for projects with passing scores.

21          Staff recommends that the Board approve  
22   Resolution number 2001-434, and award a total of  
23   \$330,817.34 to the 22 projects listed in the resolution.

24          Thank you. Any questions?

25          BOARD CHAIR MOULTON-PATTERSON: Any questions.

1           We do have speaker. Okay, Mark, and I believe  
2   it's Korte, is he still here? Okay, thank you.

3           Mr. Jones.

4           BOARD MEMBER JONES: Madam Chair, I'd like to  
5   move adoption of Resolution 2001-434, consideration of  
6   approval of the grant award for the local government  
7   waste tire public education and amnesty day grant  
8   program.

9           BOARD MEMBER MEDINA: Second.

10          BOARD CHAIR MOULTON-PATTERSON: Motion by Mr.  
11   Jones, seconded by Mr. Medina to approve Resolution  
12   2001-434.

13          Please call the roll.

14          BOARD SECRETARY VILLA: Eaton.

15          BOARD MEMBER EATON: Aye.

16          BOARD SECRETARY VILLA: Jones.

17          BOARD MEMBER JONES: Aye.

18          BOARD SECRETARY VILLA: Medina.

19          BOARD MEMBER MEDINA: Aye.

20          BOARD SECRETARY VILLA: Paparian.

21          BOARD MEMBER PAPARIAN: Aye.

22          BOARD SECRETARY VILLA: Roberti.

23          BOARD MEMBER ROBERTI: Aye.

24          BOARD SECRETARY VILLA: Moulton-Patterson.

25          BOARD CHAIR MOULTON-PATTERSON: Aye.

1           Okay. Item 26.

2           MS. GILDART: Item 26 will be presented by Bob  
3   Fujii with the Waste Tire Remediation Section.

4           BOARD CHAIR MOULTON-PATTERSON: Thank you.

5           MR. FUJII: Bob Fujii, Special Waste Division.

6   Good afternoon, Madam Chair, members of the Board.

7           Item 26 is consideration of approval of the  
8   scope of work --

9           BOARD CHAIR MOULTON-PATTERSON: Is your mike on?

10          MR. FUJII: I'm not talking into it.

11          BOARD CHAIR MOULTON-PATTERSON: Maybe you're  
12   just not close enough.

13          MR. FUJII: Is that better?

14          BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
15   Fujii.

16          MR. FUJII: It's on.

17          BOARD CHAIR MOULTON-PATTERSON: Okay. Thank  
18   you.

19          MR. FUJII: Again, item 26 is consideration of  
20   approval of a scope of work for fiscal year 2001-2002  
21   interagency agreement between the Department of Toxic  
22   Substances Control and the Board; and also consideration  
23   of approval of past costs incurred by DTSC for remedial  
24   actions at the Westley site.

25          In summary, as you know, SB 876 authorized the

1 Board to pay all approved tire remediation costs incurred  
2 by other public agencies under contract with the Board.  
3 We have been working closely with DTSC and the Regional  
4 Water Quality Control Board in remediating the Westley  
5 and Tracy tire fire sites.

6 This item provides two things for Board  
7 consideration. The first, again, is a proposed  
8 interagency agreement between the Department of Toxic  
9 Substances Control and the Board for remediation work  
10 done by DTSC at the Tracy and Westley tire fire sites.

11 This agreement is proposed to be funded at  
12 \$600,000, and would provide payment to DTSC for all  
13 approved costs associated with their remediation work.

14 Typical tasks that DTSC will perform under the  
15 agreement will be review and approval of technical  
16 documents for compliance with the national contingency  
17 plan; direction of public participation activities;  
18 coordination of sampling analysis activities; and waste  
19 classification activities.

20 The second thing is a DTSC reimbursement  
21 proposal for past costs incurred by DTSC prior to July  
22 1st, for costs incurred by DTSC prior to July 1, 2001,  
23 for remedial work performed at the Westley tire fire  
24 site.

25 I'd like to talk about just a few key issues

1 that are relevant to this item.

2 The first is the fact that the Board has already  
3 approved an interagency agreement between the department,  
4 DTSC and the Board in the amount of \$558,000. This is  
5 for past contractor costs incurred by DTSC during the  
6 remediation of the Westley tire fire site.

7 Second is the second interim settlement  
8 agreement which was approved by the Board and was between  
9 CMS Energy, DTSC, and the Regional Board in which the  
10 Board directed CMS to pay DTSC \$800,000 in reimbursement  
11 of past costs incurred by DTSC during the remediation of  
12 the Westley tire fire site.

13 So if you add those two amounts together, the  
14 total amount the Board has allocated for reimbursement to  
15 DTSC to date is \$1,358,000.

16 Third, DTSC has informed us that the total  
17 unreimbursed direct and indirect costs that they have  
18 incurred prior to July 1, 2001, will be approximately  
19 \$300,000.

20 If approved by the Board, our administration  
21 staff would explore possible funding mechanisms that  
22 could be used to effectuate this transfer of funds.

23 Four proposed payments to DTSC under the IAA for  
24 future payment will include both direct and indirect  
25 costs.

1 DTSC has informed us that their indirect costs  
2 range between 170 and 180 percent of the direct costs.

3 Five, for the Westley tire fire site there are  
4 two potential interagency funding sources that may be  
5 used for payment, the SB 876 funds, and also the funds  
6 being pursued through the Attorney General's office for  
7 settlement agreements with the responsible parties.

8 Also, SB 876 funds could not be used to pay  
9 costs incurred by DTSC prior to July 1, 2001. So the  
10 payment of DTSC's past costs could only come from funds  
11 obtained through settlement agreements with responsible  
12 parties.

13 Six, the Tracy tire fire site -- for the Tracy  
14 tire fire site, payment could only come from the 876  
15 funds since any settlement money would be specific just  
16 to the Westley site.

17 And then in terms of options available for the  
18 Board on this item:

19 In regard to the interagency agreement, the  
20 Board may approve the proposed fiscal year 2001-2002  
21 interagency agreement between DTSC and the Board and  
22 adopt Resolution 2001-465;

23 Approve the interagency agreement with specific  
24 changes;

25 Direct staff to make changes to the proposed

1 interagency agreement, and return to the Board at a later  
2 date for further consideration.

3 And in regard to the DTSC reimbursement  
4 proposal, the Board has also several options:

5 The first is approve the DTSC reimbursement  
6 proposal and adopt Resolution 2001-467;

7 Approve the DTSC reimbursement proposal with  
8 specific changes;

9 Or disapprove the DTSC reimbursement proposal  
10 altogether.

11 Staff would recommend, in regard to the  
12 interagency agreement between DTSC and the Board that the  
13 Board approve option one and adopt Resolution 2001-465.

14 In regard to the DTSC reimbursement proposal,  
15 staff would recommend that the Board approve option four  
16 and adopt Resolution 2001-467.

17 In addition to Board staff I believe Megan  
18 Cambridge from the Department of Toxics and Substances  
19 Control is here to answer any questions that you may  
20 have.

21 This concludes my presentation, any questions?

22 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
23 Fujii. Did you want to add something to that?

24 Mr. Eaton.

25 BOARD MEMBER EATON: If you would just allow me

1 a soap box one more time, because I thought we had killed  
2 this beast one time before but apparently we hadn't,  
3 because the last time we had asked if these were all.

4 Let me ask a basic question. With regard,  
5 there's two issues here; there's one about future  
6 contracts, and there's one about what may have taken  
7 place in the past.

8 With regard to the issue about what has taken  
9 place in the past, what funding limitations are  
10 available? Can those funds only be paid out of  
11 settlement funds?

12 MR. FUJII: Yes.

13 BOARD MEMBER EATON: Is that what I heard you  
14 say?

15 MR. FUJII: Yes.

16 BOARD MEMBER EATON: Is that correct?

17 MR. FUJII: Yes.

18 BOARD MEMBER EATON: So no 876 funds?

19 MR. FUJII: Correct.

20 BOARD MEMBER EATON: And we do not have any  
21 documentation with regard to those costs because in the  
22 item it says may total up to 300,000?

23 MR. FUJII: Right, the department is in the  
24 process of sending us, there are two things that they're  
25 doing currently. We have an interagency agreement with



1    them that they're sending, you know, invoices on; and  
2    also, you know, eventually they'll be sending us those  
3    unreimbursed costs with the invoices attached as well.  
4    But we don't know what that number is yet.

5               BOARD MEMBER EATON:   But why would we approve  
6    any cost since we don't know what our settlement costs  
7    are going to be yet from the lawsuit?  We don't know if  
8    we -- my point is we don't know if we're going to get  
9    \$150,000 in the settlement or 300,000.  And if we commit  
10   to 300,000 and we only get 150 out of the other remaining  
11   party, how then does DTSC get to remaining 150 since  
12   they're not able to get it out of 876 funds?  That has to  
13   come out of our General Fund because we have passed a  
14   resolution that commits to it.

15              So I guess what I'm basically saying is why,  
16    isn't it premature at this time to bring any kind of  
17    proposal with regard to reimbursement forward when we  
18    don't know exactly what the funding mechanism can be.

19              I'm not saying whether or not there's valid  
20    reimbursement or not, that's a separate issue; but  
21    procedurally I have a concern about funding something  
22    which has a limited ability to be funded, and committing  
23    the Board to a funding mechanism which isn't available.

24              MR. FUJII:  Right.  Just quickly, the, my  
25    understanding of one of the settlements with the CMS

1 Energy Generation Company is that the final settlement  
2 was supposed to be in front of Federal court this month,  
3 and I don't know the result of that court action, but I  
4 believe it was a formality, it would be approved.

5 And those funds, in talking with the Attorney  
6 General's office, would be available to the Board  
7 sometime after the first of the year.

8 BOARD MEMBER EATON: But we would have to  
9 approve that, correct?

10 MR. FUJII: The settlement, I believe, has  
11 already been approved by the Board. So this is just --

12 BOARD MEMBER EATON: But we don't know whether  
13 or not it's there, and we have no invoices.

14 You understand, you know, that once we look at  
15 it -- and the other issue that I have is when did we stop  
16 work out there since our contract ended, when?

17 MR. FUJII: The past contract under NorCal  
18 expired in May of 2001, and so we have not been working  
19 at the site probably since April of last spring.

20 BOARD MEMBER EATON: Right. So my  
21 understanding, isn't the work that DTSC is doing out  
22 there is at our coordination and control?

23 MR. FUJII: Well, right. They're currently  
24 working with us in developing what we call the remedial  
25 action work plans for the next phase of the removal

1 actions that will occur at the site, so they are  
2 currently doing oversight work now along with the  
3 regional board.

4 BOARD MEMBER EATON: The reason why I asked the  
5 question is, if you'll just beg my indulgence. If you  
6 look at the interagency agreement with DTSC, it says,  
7 "Work orders will be issued as regards to Water Board,"  
8 which we're going to take up subsequent, "will be issued  
9 by the CIWMB to RWQCB for all required work."

10 If you look at the way the wording is with  
11 regard to the Department of Toxic Substances, they have  
12 the control over what work orders. And I was under the  
13 impression, maybe mistakenly, that somehow we were the  
14 coordinating agency, and that why then is there a  
15 difference between how those work orders are approved?

16 Because when the bill was passed, I don't have a  
17 problem with contracting with Toxics, contrary to what  
18 many people believe, but this is different in the sense  
19 that the work orders and the language in two interagency  
20 agreements with two of our sister agencies are different,  
21 and so I'd like to know why is the language different,  
22 because it gives one the control over Toxics.

23 And if that's the issue, if they have exclusive  
24 jurisdiction, then that is not part of the reimbursement  
25 under 876, so they don't get the money. That was the

1 whole issue.

2               So why is there two different terms and why do  
3 we not have a uniform interagency agreement for work  
4 orders?

5               MS. GILDART: As with any interagency agreement  
6 there are two parties to sign the agreement. The tasks  
7 enumerated are worked out to the mutual satisfaction of  
8 both agencies; it has to be within the scope of the  
9 contracting agency as well as the contractor -- or I get  
10 the contractor and contractee mixed up.

11              The contractor has to be able to perform the  
12 work and to have the ability and skills, and the  
13 contractee has to be happy with that. So it's a mutual  
14 effort.

15              This scope of work has gone back and forth  
16 between the staffs of the two agencies to come to  
17 something that they felt they could sign.

18              We're presenting it here as a recommendation,  
19 it's not, it is not beyond the scope of the Board to make  
20 changes at this time if they would propose.

21              We would probably resubmit that to the  
22 department to see if those changes met their approval  
23 also.

24              The reason the Department of Toxics is involved  
25 in the decision-making on some of these issues is that

1 they have regulatory authority over hazardous wastes and  
2 the carrying out of certain provisions of the law, and  
3 felt that they needed to have that ability to discuss and  
4 plan with us what those actions would be.

5 BOARD MEMBER EATON: And I agree with you, and  
6 those are not part of the reimbursable expenses because  
7 they are within the exclusive jurisdiction and funding of  
8 that particular agency. And so how then are we going to  
9 distinguish between those? And that's the key component  
10 to the interagency agreement, is how then do we  
11 distinguish those which become within its exclusive  
12 jurisdiction and has the ability under the hazardous  
13 materials, and those that relate to what we need to have  
14 done in the remediation plan? And that's the key  
15 component, and that's why I harp on the invoices.

16 I don't have a problem, but I think as we've  
17 done, we've looked at it and said, "Here's a task that  
18 needs to be completed, you are in a better position to do  
19 these tasks, and therefore we are paying you at whatever  
20 rate you seem to want to be paid."

21 But if they have exclusive jurisdiction, they  
22 are not reimbursable because they come under a different  
23 set of circumstances and funding mechanisms.

24 MS. GILDART: We've been informed by the  
25 Department of Toxic Substances that when they are

1 exercising their authority at a site where there's been a  
2 release of hazardous constituents, that they  
3 traditionally charge those services to the responsible  
4 parties or to whoever is holding responsibility for that  
5 site.

6 I believe there is someone here from the  
7 Department of Toxics who might be able to elaborate on  
8 that process of theirs a little bit more. But our  
9 understanding is that they feel that those costs and  
10 services should be recompensable under this agreement.

11 BOARD CHAIR MOULTON-PATTERSON: Why don't we  
12 have the representative from Toxics come up.

13 Oh, Mr. Jones also.

14 BOARD MEMBER JONES: Yeah, while the rep is  
15 coming down I need to ask a couple of questions. The  
16 work order that I, I mean the work order agreement that I  
17 see in the MOU says that the Waste Board is going to  
18 develop the work order in conjunction with DTSC, and DT  
19 -- you know, and then they're going to be compensated for  
20 that work.

21 I'm getting confused with Mr. Eaton's point  
22 about it being hazardous because I thought everything at  
23 this site, whether it was hazardous or not, was going to  
24 be directed by us. And then we were going to let Toxics  
25 do it, and the remediation dollars would come out of this

1 pool of money.

2 BOARD MEMBER EATON: But that's not how it's  
3 written. We are -- no, it says approved by DTSC. Now  
4 look at what the Water Board says, it says --

5 BOARD MEMBER JONES: Well no, wait. It says,  
6 "DTSC shall be compensated for the work identified in the  
7 work order developed by the Waste Board in consultation  
8 with and approved in writing with DTSC."

9 BOARD MEMBER EATON: Correct.

10 BOARD MEMBER JONES: So all we're saying is, I  
11 think all they're saying is whatever work DTSC identifies  
12 or the Waste Board identifies, that both parties  
13 understand what their roles are and they've both signed  
14 off on it, and that DTSC, this means DTSC can't go  
15 haphazardly onto the site and do stuff and then hand us a  
16 bill after the fact.

17 BOARD MEMBER EATON: They just did, that's why  
18 the reimbursement is for --

19 BOARD MEMBER JONES: I agree, I know that this  
20 is going to be a problem, but --

21 BOARD MEMBER EATON: But how did you get the  
22 reimbursable then?

23 BOARD MEMBER JONES: Because in March we said go  
24 get this done, get these MOUs done, work was done for  
25 eight months that they continued to do and we didn't get,

1 we didn't get an MOU put together.

2 I mean that's almost like saying, you know, if  
3 somebody, if we can't put together an MOU in a reasonable  
4 period of time this wouldn't even be an issue. If we had  
5 gotten the MOU done in two or three months, this would  
6 have just been submitted as a bill.

7 It isn't because of the length of time it's  
8 taken us to develop all these things, but it was work  
9 that we had concurred with after we had taken our actions  
10 eight months ago.

11 BOARD MEMBER EATON: But it would seem to me  
12 that when you have two interagency agreements with the  
13 same kinds of work being performed, the only task being  
14 different that you have consistent language.

15 BOARD MEMBER JONES: Okay.

16 BOARD MEMBER EATON: So that's the first. And  
17 furthermore, if you look at the other page you have on  
18 compensable services, the Regional Water Quality Control  
19 Board will be paid the cost of labor only for DTSC  
20 employees. So now we're paying the DTSC employees under  
21 the Water Board.

22 BOARD MEMBER JONES: Okay, hold on.

23 BOARD MEMBER EATON: So what I'm trying to  
24 figure out is who we're paying what to and when. And if  
25 you look at agenda item seven, attachment one, page six,



1     you'll see under compensable services we're now paying  
2     DTSC employees under the Water Board as well. So we're  
3     going to get double billed for that?

4             And that's the confusion here when you have  
5     inconsistent provisions. That's all I'm trying to get  
6     at.

7             I don't have a problem, Mr. Jones, and you know  
8     I advocated for the contract, but the contract with the  
9     agencies and the agreement with those authors of the bill  
10    was that the reason why they didn't get funding  
11    themselves was that the Board here was going to be  
12    responsible for the money, and they would direct what  
13    tasks were, and they would agree up-front to what those  
14    were.

15            Now we're saying that they have to be approved  
16    by DTSC, where in another sister agency we issue 'em to  
17    the Water Board. And furthermore, after that we're now  
18    paying DTSC employees through the Water Board contract,  
19    so we are paying twice.

20            BOARD CHAIR MOULTON-PATTERSON: Can anyone  
21    answer that question?

22            MR. FUJII: Yeah, I'm looking at the agreement  
23    on the section that Mr. Eaton is referring to, and I  
24    believe that DTSC label should actually read the Water  
25    Quality Control Board. It's a typo, I apologize.

1           BOARD CHAIR MOULTON-PATTERSON: I'm sorry,  
2    could you state that again? I couldn't hear very well.

3           MR. FUJII: Where it refers to DTSC employee, I  
4    believe that's a typo and it should read, "Regional Water  
5    Quality Control Board employee."

6           BOARD CHAIR MOULTON-PATTERSON: Oh.

7           MR. FUJII: I think the point we're trying to  
8    make in this section is that in the DTSC agreement we're  
9    not only paying for staff costs but the indirect costs as  
10   well. And in the Regional Water Quality Control Board  
11   agreement, it's just for direct labor costs only, so that  
12   should be corrected.

13          BOARD CHAIR MOULTON-PATTERSON: So that's not  
14   DTSC?

15          MR. FUJII: Correct.

16          BOARD CHAIR MOULTON-PATTERSON: Okay. And we've  
17   got that on the record.

18          BOARD MEMBER EATON: So that has to be changed?

19          BOARD CHAIR MOULTON-PATTERSON: Yes, when we get  
20   to that.

21          MR. FUJII: Yes, I apologize for that.

22          BOARD MEMBER EATON: All I'm trying to get at is  
23   on the invoices is figure out what we're paying for,  
24   because we have a series of three contracts you're asking  
25   us to propose, to approve in the future. I think

1 probably it would be better to keep the term to two,  
2 obviously, since we have to update the plan every two  
3 years, that would be consistent with the five year plan.

4 Second, and even more importantly, is we were  
5 told the last time, and I'm not going to go back to the  
6 transcript, but this was all the reimbursable expenses,  
7 and low and behold here we come up with some more.

8 And more importantly, the issue for us is how do  
9 we pay it if we don't get the settlement? And that's an  
10 issue that I think I don't have any problem today about  
11 approving the two, I'd like to see only two approved, but  
12 the Board may feel different that there needs to be three  
13 for a set amount of money.

14 But with regard to the reimbursable, we ought to  
15 see where we are and what the expenses are before we go  
16 ahead and just reimburse up to a certain amount.

17 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

18 BOARD MEMBER PAPARIAN: Let me just suggest a  
19 way to move forward on Resolution 2001-467 which is the  
20 one that has the \$300,000. And perhaps we should make  
21 the resolved clause be, "Up to \$300,000 to DTSC pending  
22 receipt of funding and verification of DTSC  
23 expenditures."

24 I think that would get at the issue of whether  
25 the funding is available to put out there or not, and

1 would also get at the issue of whether they provide us  
2 with verification that they actually spent the money.

3 BOARD MEMBER EATON: Board approval like we did  
4 the last time where we got the invoices or whatever we  
5 had presented to us. Do you remember when we got the  
6 first --

7 BOARD MEMBER PAPARIAN: Yeah.

8 BOARD MEMBER EATON: We had a first packet that  
9 came to us with the expenses. In the resolved clause  
10 that we should have that same packet of materials.

11 BOARD MEMBER PAPARIAN: I'm trying to avoid, I'm  
12 tired of dealing with this issue.

13 BOARD MEMBER EATON: Trust me, you know, it's  
14 the gift that keeps giving, you know.

15 BOARD MEMBER JONES: The \$300,000 would be  
16 conditioned on the settlement agreement with CMS, is that  
17 what you're saying?

18 BOARD MEMBER PAPARIAN: Right, on our having the  
19 funds available --

20 BOARD MEMBER JONES: Getting the money in.

21 BOARD MEMBER PAPARIAN: -- from settlement.

22 BOARD MEMBER EATON: We'd be approving the cost,  
23 the Board approving the amount.

24 BOARD MEMBER JONES: Right.

25 BOARD MEMBER EATON: Because my understanding is

1 on this one they're not part of the lawsuit, and as such  
2 they don't have a prove-up, where if it's a prove-up  
3 everyone has to put their costs in.

4 BOARD MEMBER PAPARIAN: When you say Board  
5 approval, what I'm looking for is verification of the  
6 costs, and I'm happy letting our staff do that. I don't  
7 want to have to go through there --

8 BOARD MEMBER EATON: I'll be happy to do that  
9 for you, Mr. Paparian. I'm real good at those invoices,  
10 trust me.

11 But the Board should approve it because it has  
12 to be some Board approval of the costs in the settlement  
13 and that, what we're paying out. So if you want to put  
14 in the resolved clause like you said, you know,  
15 verification and Board approval, it comes up to the same  
16 item. I'd just like to see the invoices at the time.

17 BOARD CHAIR MOULTON-PATTERSON: Mr. Leary.

18 BOARD MEMBER PAPARIAN: Let me look to our staff  
19 in terms of what's the normal practice in terms of  
20 something like this.

21 EXECUTIVE DIRECTOR LEARY: The strategy behind  
22 this document was that if the Board approved this  
23 Resolution 2001-467, it would be contingent upon the  
24 receipt of invoices, and the Board would, Board staff  
25 would simply pay those invoices. We weren't anticipating

1 bringing each of the individual invoices back to the  
2 Board.

3 We had tried to do that, I remember, last May in  
4 Glendale, and that didn't work very well either, as I  
5 recall. But if that is the Board's wishes, staff will  
6 comply.

7 But just to make the record clear, it wasn't the  
8 intent of this resolution or this agenda item. There  
9 wasn't anticipated there would be another step before the  
10 Board for final resolution of these passed costs.

11 BOARD MEMBER PAPARIAN: So my motion would be,  
12 using a process similar to what Mr. Leary just described,  
13 it would be pending the availability of the funding and  
14 verification of DTSC expenditures by staff. And if we  
15 have a problem with that I think we can hold the staff  
16 accountable, I don't feel like I need to see receipts.

17 BOARD MEMBER EATON: Well at some point you have  
18 to know what you're paying for.

19 EXECUTIVE DIRECTOR LEARY: Well what I would  
20 suggest --

21 BOARD MEMBER EATON: And I don't think we know  
22 what we're paying for because these are expenses which we  
23 were told were, first and foremost final, when we paid  
24 out the 800 or the 558, and now we have a subsequent  
25 300,000. So I'd like to see what those charges are and

1     where they differ, and what the timeframe happens to be  
2     in which these services were performed.

3             I mean if we were assured one time, and I think  
4     that's just, I mean that's just being fiscally  
5     responsible, and we have a duty to protect those funds.

6             EXECUTIVE DIRECTOR LEARY:  The, they were, in  
7     fact, final at the time that we brought the agenda item  
8     before the Board, as Mr. Jones implied, that was  
9     sometime last February or March.  They were current up to  
10    that point.

11            BOARD MEMBER EATON:  So in two months they  
12    billed \$300,000 on this site?

13            EXECUTIVE DIRECTOR LEARY:  Up to.  Up to.  And  
14    it's not --

15            BOARD MEMBER EATON:  That's my point.  See, Mr.  
16    Paparian, now they're going it's not only a set amount,  
17    it's up to.  So let's get invoices up to 300,000.  That's  
18    what I'm trying to get at.  You've got to have the  
19    invoices, you've got to see what the work is.

20            So now you're telling me that from February to  
21    basically May.

22            EXECUTIVE DIRECTOR LEARY:  There's a time --  
23    issue --

24            BOARD MEMBER EATON:  -- that's a hundred  
25    thousand dollars a month.  How much did we spend out

1     there --

2                 EXECUTIVE DIRECTOR LEARY:   Well although --

3                 BOARD MEMBER EATON:   -- as the primary agency?

4                 EXECUTIVE DIRECTOR LEARY:   I don't know for a  
5     fact the answer to that question.   The original  
6     interagency agreement for the 558 only included external  
7     contractor costs incurred by DTSC.   As you recall, the  
8     Board wrote that interagency agreement very specifically.

9                 The additional \$800,000 settlement costs were  
10    for costs, additional contractor costs as well as some  
11    staff costs.

12                And what I'm suggesting here is this is to pick  
13    up the difference in the additional staff costs and the  
14    indirect costs.

15                I was simply going to suggest as a way of --

16                BOARD MEMBER EATON:   Wouldn't you like to see  
17    those?

18                EXECUTIVE DIRECTOR LEARY:   Yeah.

19                BOARD MEMBER EATON:   Well so would I.

20                EXECUTIVE DIRECTOR LEARY:   What I was going to  
21    suggest is this is not a blank check, and if we want to  
22    strengthen the resolution clause we could say that, "The  
23    Board does hereby approve payment of up to \$300,000 to  
24    DTSC, if and only if the Board receives the settlement  
25    money as anticipated through the resolution of the



1 litigation. And then for those costs that otherwise have  
2 not been heretofore reimbursed by the department or  
3 through any other settlement funds will the Board pay for  
4 those invoices."

5 BOARD MEMBER EATON: It's a slow bleed, Mr.  
6 Leary, it's a slow bleed on us. I just, you know,  
7 there's a finality. We were assured there was a  
8 finality, and now we're told in the intervening three  
9 months or four months that there was nearly up to  
10 \$300,000 worth of costs. I find that hard to believe  
11 when we as a staff had no activity going on out at that  
12 site, and yet we are supposed to be the primary  
13 coordinating agency.

14 All I'm asking, and all I'm asking Mr. Paparian,  
15 is that at least with regard to these expenses, whatever  
16 they may be up to, is that we have the ability, as Board,  
17 as a Board to approve those as reimbursable as we should  
18 do because they're part of a settlement agreement. And  
19 there are restrictions upon the monies being used, so  
20 that we don't dip into the 876 monies.

21 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian and  
22 then Mr. Jones.

23 BOARD MEMBER PAPARIAN: Well I mean I think we,  
24 the basic issue is does the Board itself want to look at  
25 the receipts or do we want to delegate that to staff? My

1 motion has the staff doing that, and that's how I'd like  
2 to have my motion stand.

3 BOARD MEMBER JONES: I'll second your motion.

4 BOARD CHAIR MOULTON-PATTERSON: Okay.

5 BOARD MEMBER JONES: And I do that out of --  
6 Mr. Eaton.

7 BOARD MEMBER EATON: No.

8 BOARD MEMBER JONES: I understand, no, I  
9 understand that you're trying to protect our money and I  
10 agree with you on an awful lot of that.

11 BOARD MEMBER EATON: If you did you wouldn't  
12 second the motion.

13 BOARD MEMBER JONES: This was dollars that were  
14 spent from February through now, and if we would have had  
15 an MOU it would have been done.

16 It's just like the, you ask staff, because our  
17 contract ran out with the contractor and the site was  
18 vacant of our people for five months, to in the future  
19 let us know ahead of time and get it done. And in fact,  
20 in that five months they would have expended a half a  
21 million dollars if they would have been out there.

22 BOARD CHAIR MOULTON-PATTERSON: Okay. We have a  
23 motion on the --

24 BOARD MEMBER ROBERTI: Madam Chair.

25 BOARD CHAIR MOULTON-PATTERSON: Yes, Senator

1     Roberti.

2                 BOARD MEMBER ROBERTI: I intend to vote for the  
3     motion, however I take heart in many of the comments Mr.  
4     Eaton has been making -- it won't work. Oh, there it  
5     goes. And I hope that staff, the Executive Director can  
6     come back with a modus operandi for us on how to deal  
7     with these things in a set way in the future if that's  
8     possible.

9                 EXECUTIVE DIRECTOR LEARY: Senator Roberti, your  
10    point is well taken. I think actually that is the intent  
11    of the first resolution in this agenda item is to take  
12    this problem, put it behind us, and address the  
13    relationship with DTSC from July 1st into the future.

14                BOARD MEMBER ROBERTI: I don't really just mean  
15    DTSC.

16                EXECUTIVE DIRECTOR LEARY: Well the Regional  
17    Board is a subsequent item.

18                BOARD MEMBER ROBERTI: Yeah.

19                EXECUTIVE DIRECTOR LEARY: And outside of those  
20    two agencies, we do not anticipate any working  
21    relationship pursuant to interagency agreements with the  
22    two waste tire fire sites, nor do we necessarily  
23    anticipate further interagency agreements for any other  
24    tire cleanups at this time.

25                BOARD CHAIR MOULTON-PATTERSON: Okay. Do we

1 vote on 465 or 467?

2 BOARD MEMBER ROBERTI: Are there any other kinds  
3 of disasters that we had, that we have that we would have  
4 interagency agreement or have had in the past? I know  
5 tire fires are the most obvious.

6 EXECUTIVE DIRECTOR LEARY: We certainly don't  
7 want to get into this at this point.

8 BOARD MEMBER ROBERTI: Like landfill cleanup --

9 EXECUTIVE DIRECTOR LEARY: We have the whole  
10 burn dump issue before us where similar relationships  
11 exist between us and the Regional Board and DTSC.

12 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian, I  
13 have a question. Your motion was on 2001-467?

14 BOARD MEMBER PAPARIAN: That's correct, and then  
15 my intention would be then to go to 465.

16 BOARD CHAIR MOULTON-PATTERSON: Okay. We have a  
17 motion by Mr. Paparian, seconded by Mr. Jones to approve  
18 Resolution 2001-467 with the change, or with the  
19 additional language.

20 BOARD MEMBER PAPARIAN: Right.

21 BOARD CHAIR MOULTON-PATTERSON: Please call the  
22 roll.

23 BOARD SECRETARY VILLA: Eaton.

24 BOARD MEMBER EATON: No.

25 BOARD SECRETARY VILLA: Jones.

1 BOARD MEMBER JONES: Aye.  
2 BOARD SECRETARY VILLA: Medina.  
3 BOARD MEMBER MEDINA: Aye.  
4 BOARD SECRETARY VILLA: Paparian.  
5 BOARD MEMBER PAPARIAN: Aye.  
6 BOARD SECRETARY VILLA: Roberti.  
7 BOARD MEMBER ROBERTI: Aye.  
8 BOARD SECRETARY VILLA: Moulton-Patterson.  
9 BOARD CHAIR MOULTON-PATTERSON: Aye.  
10 Okay, Mr. Paparian.  
11 BOARD MEMBER PAPARIAN: I'll move Resolution  
12 2001-465.  
13 BOARD MEMBER JONES: I'll second.  
14 BOARD CHAIR MOULTON-PATTERSON: Okay. Motion by  
15 Mr. Paparian, seconded by Jones to approve Resolution  
16 2001-465.  
17 Please call the roll.  
18 BOARD SECRETARY VILLA: Eaton.  
19 BOARD MEMBER EATON: No.  
20 BOARD SECRETARY VILLA: Jones.  
21 BOARD MEMBER JONES: Aye.  
22 BOARD SECRETARY VILLA: Medina.  
23 BOARD MEMBER MEDINA: Aye.  
24 BOARD SECRETARY VILLA: Paparian.  
25 BOARD MEMBER PAPARIAN: Aye.

1 BOARD SECRETARY VILLA: Roberti.

2 BOARD MEMBER ROBERTI: Aye.

3 BOARD SECRETARY VILLA: Moulton-Patterson.

4 BOARD CHAIR MOULTON-PATTERSON: Aye. Item  
5 number -- well before we go to, just as a little break,  
6 before we go to item 27, I did want to take this  
7 opportunity to introduce our new attorney Jody Feldman.  
8 Jody, would you stand up? She'll be working with us on  
9 tires, and we wanted to welcome you.

10 (APPLAUSE.)

11 BOARD CHAIR MOULTON-PATTERSON: It's not always  
12 this hard. Okay.

13 Item number 27.

14 MR. FUJII: Again Bob Fujii, Special Waste  
15 Division.

16 Item 27 is consideration of approval of the  
17 scope of work for fiscal year 2001-2002 interagency  
18 agreement between the Regional Water Quality Control  
19 Board and the Board.

20 This item is similar to the one that you just  
21 heard except that it proposes that the Board enter into  
22 an agreement with the Regional Water Quality Control  
23 Board Central Valley region. The primary purpose of the  
24 interagency agreement is to define the role of the  
25 Regional Water Quality Control Board on future

1 remediation work at the Tracy, Westley tire fire sites.

2           The agreement is proposed to be funded at  
3 \$600,000, and would provide payment to the Regional Board  
4 of all approved costs associated with this remediation  
5 work.

6           Typical work that the Regional Board would  
7 perform under this agreement would include review and  
8 approval of technical documents for compliance with the  
9 National Contingency Plan; participation in public  
10 participation activities; coordination of sampling and  
11 analysis activities; and then participation and waste  
12 classification activities as well.

13           In terms of key issues there's really only one  
14 that I'd like to bring to your attention, and that's just  
15 like in the DTSC interagency agreement that the work done  
16 on the Westley site, that there are two potential funding  
17 sources for the interagency agreement that may be used  
18 for payment; and they are the SB 876 funds, and also  
19 funds being pursued by the Attorney General's office  
20 through settlement agreements with the responsible  
21 parties.

22           And again, the Tracy site payment can only be  
23 made from the 876 funds since the settlement monies are  
24 specific to Westley only.

25           In terms of options available to the Board on

1 this item. The Board may choose to approve the proposed  
2 2001-2002 interagency agreement between the Water Quality  
3 Control Board and the Board;

4 Approve the interagency agreement with specific  
5 changes;

6 Direct staff to make changes to the proposed  
7 interagency agreement and return to the Board at a later  
8 date for further consideration.

9 At this point the staff would recommend that the  
10 Board approve option number one and adopt Resolution  
11 number 2001-463.

12 This concludes my presentation, are there any  
13 questions?

14 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
15 Fujii.

16 Mr. Eaton.

17 BOARD MEMBER EATON: Are you going to make the  
18 change on the interagency agreement, is that part of the  
19 resolution?

20 MR. FUJII: Yes, sir, we'll make that change. I  
21 should read that into the record.

22 BOARD MEMBER JONES: Madam Chair.

23 BOARD CHAIR MOULTON-PATTERSON: Yes.

24 BOARD MEMBER JONES: I move adoption of  
25 Resolution 2001-463 conditioned on the change in the



1 scope of work to reflect Regional Quality Control Board  
2 instead of DTSC.

3 BOARD MEMBER MEDINA: Second.

4 BOARD CHAIR MOULTON-PATTERSON: Okay. We have a  
5 motion by Mr. Jones, seconded by Mr. Medina with the one  
6 change as noted on attachment one to approve 2001-463.

7 Please call the roll.

8 BOARD SECRETARY VILLA: Eaton.

9 BOARD MEMBER EATON: Aye.

10 BOARD SECRETARY VILLA: Jones.

11 BOARD MEMBER JONES: Aye.

12 BOARD SECRETARY VILLA: Medina.

13 BOARD MEMBER MEDINA: Aye.

14 BOARD SECRETARY VILLA: Paparian.

15 BOARD MEMBER PAPARIAN: Aye.

16 BOARD SECRETARY VILLA: Roberti.

17 BOARD MEMBER ROBERTI: Aye.

18 BOARD SECRETARY VILLA: Moulton-Patterson.

19 BOARD CHAIR MOULTON-PATTERSON: Aye. Thank  
20 you, Mr. Fujii and Ms. Gildart.

21 Okay. We move on to number 28.

22 MS. WILLD-WAGNER: Good afternoon, Chairman and  
23 Board members. I'm Shirley Willd-Wagner of the Special  
24 Waste Division, Used Oil and Household Hazardous Waste  
25 Branch.

1           Item 28 provides an update on the used oil  
2   recycling fund, and consideration of proposed allocations  
3   and contract concepts for fiscal years 2001-2002.

4           In developing this item we worked very closely  
5   with the administration and finance division budget shop.  
6   And it became apparent as we reviewed the fund  
7   conditioning that there may be additional funding  
8   available for contract concepts this year.

9           The recommendations will be discussed further  
10   for you. Both executive staff and the budget  
11   subcommittee, the recommendations do reflect projects  
12   that could be recommended if additional funding becomes  
13   available. And the resolution also provides for  
14   identifying such projects.

15           Kristin Yee who joined the Board this August as  
16   supervisor of the oil recycling and analysis section will  
17   present this item.

18           BOARD CHAIR MOULTON-PATTERSON: Good afternoon.

19           MS. YEE: Good afternoon, Madam Chair and Board  
20   members. I'm Kristin Yee of the Used Oil, Household  
21   Hazardous Waste Branch, and I'm here to discuss, as  
22   Shirley said, agenda item number 28, the status of the  
23   used oil recycling fund, and your consideration of  
24   approving the proposed allocation contract concepts.

25           Now originally I was going to walk through

1 attachment one and two with you, but because of time if  
2 you could just pull out attachment one and two I'll just  
3 give you a brief description of it.

4 Basically attachment one just presents the  
5 framework how the funds are received and allocated based  
6 on the Oil Recycling Enhancement Act and its order of  
7 priority.

8 On one side of the chart you'll see it lists the  
9 different payments and the types of programs, grant  
10 programs that we have. And on the other side of the  
11 chart you'll see the specific piece of legislation.

12 And then attachment two is, basically follows  
13 the same framework as attachment one, but it shows the  
14 distribution of dollars from the used oil fund.

15 So if, the only thing I really want, I can walk  
16 through this with you and the details if you want me to,  
17 otherwise I was just going to move on unless you have  
18 questions for me.

19 Should I just move on?

20 BOARD CHAIR MOULTON-PATTERSON: Yes, I'm sorry.

21 MS. YEE: Okay. Okay. The only thing I wanted  
22 to point out on attachment two is the next portion of the  
23 item is allocation of contract concepts, and our  
24 allocation, which is specifically the 2.191 million  
25 that's outlined in attachment two, and that's for the

1 education and outreach activities.

2 And this 2.191 is further broken down in  
3 attachment three. So if you can pull out attachment  
4 three it will give you a better understanding of how this  
5 2.191 is allocated.

6 If you'd like I can give you a short history on  
7 how this chart was created and how it's different from  
8 the original chart.

9 On October 29th, the budget subcommittee  
10 convened to hear all of the contract concepts. At that  
11 meeting Madam Chair Moulton-Patterson asked that staff  
12 provide their recommendations with regards to the  
13 contract concepts for the next meeting which took place  
14 on November 7th.

15 And on November 7th executive staff did bring  
16 forward their list of recommendations, as well as the  
17 budget subcommittee provided their list of  
18 recommendations. So attachment three is the result of  
19 the two budget subcommittee meetings.

20 And instead of walking through every single  
21 contract concept, I'll just kind of give you a lay of the  
22 land in terms of this chart. You'll see that there's  
23 concept titles. There's a total of 16 contract concept  
24 titles here.

25 And then the next column shows the used oil

1 requested amount, and you'll see that there's a total  
2 requested amount of 2.373 million in contract concept.  
3 We started off with 2.191 million in terms of the fund  
4 amount.

5 41 million is allocated to mandatory services,  
6 and that's basically our student contract.

7 And then another 747,000 is allocated for  
8 different kinds of services that are invoiced. And the  
9 747 is broken down in table one of page five of your  
10 agenda item.

11 And basically they, they're for advertisement,  
12 printing, premiums, booth reservations, and curriculum  
13 printing. So you can see the details of that in your  
14 agenda item.

15 The remaining fund after you take away the 747  
16 and the 41,000 is 1.403 million that is used for contract  
17 concepts.

18 And if you look at the next columns you'll see  
19 four columns where it says executive staff  
20 recommendations. We have recommendation one, two, three,  
21 and then if funds become available.

22 Now if we go down that column you'll see how  
23 executive staff provided their recommendations. They  
24 have their priority one, two, and three list, and that  
25 number for each of those concepts rolls up to \$1.43

1 million. And if you go to the top list you'll see that  
2 the 1.43 million which is subtracted from the total which  
3 remains a zero balance. So executive staff did allocate  
4 the total amount available for contract concepts.

5 The next, the last, and then the next two  
6 columns is the budget subcommittee recommendations. And  
7 if you go all the way down the chart you'll see that  
8 1.288 million is allocated in contract concepts.

9 And then if you go back up to the top of the  
10 chart you'll see that there was a remainder of \$114,000  
11 that was not allocated at the 1.43 million, \$1.403  
12 million.

13 So that's kind of an outline of how to read this  
14 chart. Now, instead of going through each of the  
15 contract concepts specifically and saying how the  
16 subcommittee, the executive staff and the budget  
17 subcommittee recommended, I'll just tell you what was  
18 different. Because we pretty much agreed on everything  
19 except for contract concept number 48, which is the  
20 California Environmental Hotline.

21 They came in requesting \$226,000. Executive  
22 staff recommended \$156,000, and recommending \$70,000 if  
23 funds became available.

24 The budget subcommittee did not recommend the  
25 California Environmental Hotline.

1           The next contract concept regular differences  
2   was number 49 which is Mesa Marin Speedway. They came in  
3   for \$360,000 to do outreach through television spots.  
4   They repackaged it and did an alternative package, and  
5   came down to a package of 125 with more outreach just  
6   through advertisement of the speedway, radio ads.

7           And so that's what the executive staff  
8   recommended was the 125 that they came in for, the  
9   alternative package.

10          The budget subcommittee did not recommend it.

11          The next difference is the contract concept  
12   number 54, and that's the environmental justice study.  
13   Came in for \$200,000.

14          And executive staff recommended that that be  
15   funded if funds became available.

16          The budget subcommittee recommended the 200,000.

17          The last one is contract concept number 55 which  
18   is the used oil contamination testing kit. That came in  
19   at 445,000.

20          And again, executive staff recommended that if  
21   funds became available.

22          The budget subcommittee recommended also if  
23   funds became available.

24          So those were the only differences are those  
25   four contract concepts. And then also I just wanted to

1 point out that contract concept number 19 for the Cal MAX  
2 program and WRAP, that's going to be for the \$33,333 is  
3 going to be placed under the base budget, and so it's not  
4 part of the contract concept any longer.

5 And that pretty much concludes my contract  
6 concepts on this agenda item.

7 BOARD CHAIR MOULTON-PATTERSON: Thank you. You  
8 did a really great job summarizing that and we really  
9 appreciate it.

10 I just wanted to start off by saying that the  
11 budget subcommittee spent a lot of time on these. And I  
12 did want to mention that item number 54 is a placeholder  
13 on environmental justice while the actual concept is  
14 being written, and will return to the full Board for  
15 approval, but we wanted to set aside that amount of  
16 money.

17 I did want to call on Mr. Paparian to just  
18 address why we didn't recommend the 911 -- what's it  
19 called? Hotline, I mean, the extra, if you could just  
20 give our justification for that I'd appreciate it.

21 BOARD MEMBER PAPARIAN: Yeah. One of the things  
22 that came up in the budget subcommittee was that the  
23 money would be used for analysis of the phone calls  
24 coming into the hotline. And I did a quick back of the  
25 envelope calculation and found that it was going to cost



1     \$20 a phone call to analyze that phone call to figure out  
2     where it came from and what type of questions were being  
3     asked on that phone call.

4             If you factored in also all the website hits, it  
5     would come down to eight dollars a hit or website, or  
6     phone call, eight dollars a hit or phone call to analyze  
7     that information; and again I questioned whether that was  
8     a good use of money, you know, for a two or three minute  
9     phone call where someone is calling in to ask where the  
10    closest recycling used oil center is, to then spend \$20  
11    of state money to analyze that phone call just seemed a  
12    little bit exorbitant to me.

13            BOARD CHAIR MOULTON-PATTERSON: Okay. Any  
14    questions, comments?

15            Mr. Eaton.

16            BOARD MEMBER EATON: I just have one, and it's  
17    on item number fifty, it's the five year plan and  
18    marketing strategy. In going through it I see that you  
19    get 60,000 to develop a plan, and then once the plan is  
20    developed that doesn't come back to the Board at all for  
21    any kind of review or approval, and then there's a 90,000  
22    implementation, is that correct? It says 60,000 goes for  
23    the study, and 90,000 goes for whatever's in the study.

24            MS. YEE: I think our intention in doing that  
25    plan is it's not required by statute or anything, but we

1 felt that in order to kind of give a road map to the used  
2 oil program, it would be wise to put together a five year  
3 plan, and we worked closely with the advisors as well as  
4 staff.

5 BOARD MEMBER EATON: But it doesn't come back to  
6 the Board, is that correct, after you guys come up with a  
7 plan, it says right here --

8 BOARD MEMBER PAPARIAN: I think my presumption  
9 when I was looking at this was it would come back to the  
10 Board.

11 BOARD MEMBER EATON: You can't make that ---  
12 you're learning you can't make that presumption anymore.

13 BOARD MEMBER PAPARIAN: I've been here a little  
14 over a year and I'm learning. I think it's fine to make  
15 that explicit.

16 BOARD MEMBER EATON: But there's another point  
17 here as well, Mr. Paparian, and I don't have a problem  
18 with it. But if you notice that the \$60,000 is going for  
19 the five year plan, okay, you're not going to see a five  
20 year plan until you're in the last year of your term,  
21 because the fund allocation, if you look right down here  
22 it says, "The fund allocation for fiscal year 2002-2003,"  
23 which is the upcoming fiscal year, for a whole year,  
24 "will not be reflected in the marketing plan."

25 So by the time you get a marketing plan, it will

1 in all likelihood be outdated from what the world is  
2 today. So all I'm trying to find out is how can we speed  
3 up the process by which we get a five year plan so, to  
4 have a reflection so that we can actually look at it and  
5 say, "If it comes back to us, here's where we want to  
6 go." But you see, it's a full year where we don't get an  
7 allocation.

8 So it's not only the rest of these six months or  
9 eight months that we have, but it won't be reflected in  
10 the next fiscal year, so you're going to have almost  
11 eighteen months, you're going to get a five year plan  
12 after that based on data. So I'm just saying is there a  
13 way that we can speed it up?

14 MS. YEE: Speed it up?

15 BOARD MEMBER EATON: Yeah, absolutely. I mean  
16 if you've got a five year plan it'd be great, but it's  
17 kind of like, you know, what they used to do in the  
18 Soviet Union, you know, the five year plans had the  
19 plumbing on the outside of the building, you know,  
20 because they thought it was a good idea and no one was  
21 watching.

22 But that's what it says here and what, so am I  
23 mistaken?

24 BOARD CHAIR MOULTON-PATTERSON: Staff, I mean is  
25 there a way that we could speed this up?

1           MS. WILLD-WAGNER: First of all, yes, Mr. Eaton,  
2 we can bring the plan back to the Board for approval  
3 certainly. And this is just the concept, we will also  
4 bring back the scope, the specific scope of work for,  
5 that will be, that's always just a typical progression.

6           But we will bring back the scope of work and in  
7 the scope of work it will specify that we'll bring it  
8 back to the plan, back to the Board for approval.

9           And I think the intention on the marketing  
10 strategy was that we would not wait until the end of the  
11 five year plan to develop that, that would also be going  
12 on simultaneously. And we'll continue to work with the  
13 advisors to see exactly how we can move forward with the  
14 implementation plan at the same, you know, to make that  
15 come forward more quickly.

16          BOARD CHAIR MOULTON-PATTERSON: So we'll all  
17 still be here.

18          BOARD MEMBER EATON: Right, but, but we will not  
19 have any input on the recommendations. You said you're  
20 going to get the scope of the work for the plan, I  
21 understand that.

22          I'm also concerned about the second part of the  
23 equation, which is the bulk of the money, the 90,000 on  
24 the recommendations. That ought to be a Board decision  
25 about what recommendations and where we ought to go.

1 That ought not to be done in the used oil department.

2 And that's my point.

3 It's not only the 60,000 for the marketing, but  
4 look at your other little caveat there, the 90,000 cause,  
5 you know, and if that's what you need that's what you  
6 need. There's a lot of other little things here that  
7 could be buttressed by that, but why wouldn't we also see  
8 and be able to allocate the 90,000 for the  
9 recommendations that we as a Board feel with a proper  
10 road map.

11 MS. WILLD-WAGNER: We will bring back the full  
12 plan, not just the scope of work but the full plan  
13 including allocation of the 90,000.

14 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank  
15 you.

16 BOARD MEMBER EATON: Okay.

17 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

18 BOARD MEMBER JONES: Thanks, Madam Chair. This  
19 environmental justice concept of educating local  
20 governments regarding the placement of oil collection and  
21 household hazardous waste facilities. Most oil  
22 collection facilities are at existing centers, either at  
23 gas stations, repair facilities, oil change shops, almost  
24 all throughout the state. Some go to transfer stations,  
25 recycling facilities. It's, I have never seen one, maybe

1   there's some out there, where they created a new facility  
2   at a, just a place. It's also been tied because they  
3   have to be managed to an ongoing business or ongoing  
4   recycling facility.

5               And the same with household hazardous waste  
6   facilities. They're normally built within the confines  
7   of a transfer station or a landfill or a fire station, I  
8   think maybe some public works yards, but that's about  
9   it. I haven't seen any anywhere else in my time, and I'm  
10   wondering what we're going to tell local governments  
11   about putting these things. I mean they go into existing  
12   facilities.

13              BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

14              BOARD MEMBER PAPARIAN: The environmental  
15   justice, the environmental justice item as it is right  
16   now is a placeholder. The points you're making are well  
17   taken, and I think we should consider that in developing  
18   the contract concept.

19              Mr. Medina also has some ideas about how to  
20   spend the environmental justice money. So rather than  
21   flesh this concept out in the subcommittee, we decided  
22   to, that it would be appropriate to set aside \$200,000,  
23   but to come back with the real proposal later. And I  
24   think that's reflective of what the Chair said a few  
25   minutes ago too.

1               BOARD MEMBER JONES: Well she said, yeah, no, I  
2   heard her say it was a placeholder, but it was a  
3   placeholder to develop this concept.

4               What I'm telling you is you need to do a little  
5   work first and determine where these facilities are. I  
6   remember the Sierra Club coming to Sweats in San  
7   Francisco which had the first permitted household  
8   hazardous waste facility because the city had asked us to  
9   look at small quantity generators. And they wanted to  
10   picket us until the head of the Sierra Club in San  
11   Francisco found out he'd used the facility four times  
12   himself, and decided that he didn't necessarily want to  
13   be in the front of that picket line.

14              So I think we need to understand that before we  
15   spend 200 grand, you know, developing. That's all I'm  
16   saying. It's, you know, these are, you know, everyone  
17   I've ever seen has been an existing facility.

18              BOARD MEMBER PAPARIAN: It's a good point. What  
19   we, what you ultimately see in this concept may look a  
20   lot different than what's on the paper right now is what  
21   I'm saying.

22              BOARD MEMBER JONES: Okay. One of the  
23   placeholders or one of the things that wasn't considered  
24   was the, or I guess it was considered but it was  
25   determined we didn't have money for it, the contamination

1 kit, which is one of your proposals. That's critically  
2 important to the collection of oil.

3 We're asking, we're asking cities and counties  
4 to do household hazardous waste collection events, and  
5 they don't have the dollars to afford the testing. And  
6 you take one gallon of tainted material, whether it has  
7 antifreeze in it or something else, and throw it into a  
8 4,000 gallon tank, you've contaminated that entire tank.

9 BOARD CHAIR MOULTON-PATTERSON: And Mr. Jones,  
10 on that we were assured or almost assured that there  
11 would be money, and that was our number one priority,  
12 because it's a large sum, 445,000.

13 BOARD MEMBER JONES: Right.

14 BOARD CHAIR MOULTON-PATTERSON: But we all felt  
15 that was very important.

16 BOARD MEMBER JONES: Yeah. So I'd like to do a  
17 little work on this other and show where those facilities  
18 are, and maybe we can free up that to get some help to  
19 the cities.

20 BOARD CHAIR MOULTON-PATTERSON: Yes,  
21 definitely.

22 MS. JORDAN: Yes, and I'd like to speak to the  
23 money issue.

24 As we informed the subcommittee, when we did the  
25 allocation in the beginning it was a point in time dollar



1 number and it was before year end. We've since had some  
2 reporting methodologies changed by the State Controller's  
3 office, and some additional issues, and so we are  
4 researching and looking at those numbers. And that will  
5 be brought back to the subcommittee and the Board with  
6 regards to any available dollars within the oil fund  
7 itself. And that was what was discussed with the  
8 subcommittee also.

9 And so what we're looking at now in our  
10 preliminary numbers, it appears that there will be money  
11 for that particular issue, but that those dollars are  
12 still being researched, so we'll bring that back.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you.

14 Mr. Medina.

15 BOARD MEMBER MEDINA: Madam Chair, I'd like to  
16 move Resolution 2001-433, the budget subcommittee  
17 recommendations.

18 BOARD MEMBER PAPARIAN: Madam Chair, I'd like to  
19 second that, and just a friendly suggestion that in the  
20 places where there's supposed to be language inserted we  
21 say, "Pursuant to the recommendations of the budget  
22 subcommittee," so that it's clear what we're referring to  
23 in terms of what we're allocating.

24 BOARD MEMBER MEDINA: And I accept that.

25 BOARD CHAIR MOULTON-PATTERSON: Thank you. We

1 have a motion by Mr. Medina, seconded by Mr. Paparian to  
2 approve Resolution 2001-433.

3 Please call the roll.

4 BOARD SECRETARY VILLA: Eaton.

5 BOARD MEMBER EATON: Aye.

6 BOARD SECRETARY VILLA: Jones.

7 BOARD MEMBER JONES: Aye.

8 BOARD SECRETARY VILLA: Medina.

9 BOARD MEMBER MEDINA: Aye.

10 BOARD SECRETARY VILLA: Paparian.

11 BOARD MEMBER PAPARIAN: Aye.

12 BOARD SECRETARY VILLA: Roberti.

13 BOARD MEMBER ROBERTI: Aye.

14 BOARD SECRETARY VILLA: Moulton-Patterson.

15 BOARD CHAIR MOULTON-PATTERSON: Aye.

16 Okay. You guys have had quite a day. Okay,  
17 we're moving on now.

18 Ms. Nauman, number 29.

19 MS. NAUMAN: Thank you. Good afternoon, Madam  
20 Chair and Board members. Julie Nauman, Permitting and  
21 Enforcement Division.

22 As we begin this segment of the agenda I do have  
23 some revisions to pass out to you. If somebody could put  
24 this on the back table? Thank you.

25 We have revised item 29, revised item 30, and

1 some additional attachments for item 35 and 40. So  
2 that's all being passed out to you now, I didn't want  
3 them to get lost -- excuse me?

4 BOARD MEMBER JONES: Didn't we get this this  
5 morning.

6 MS. NAUMAN: You might have gotten revised  
7 permits. We've actually revised the agenda item and the  
8 resolution so you don't have the check boxes in the  
9 resolution, trying to keep this as simple as possible.  
10 Okay.

11 So with that let me begin with item 29 which is  
12 consideration of a revised solid waste facility permit  
13 for the Orange Avenue Disposal Service, Inc. in Fresno  
14 County.

15 Virginia Rosales is making the presentation.

16 MS. ROSALES: Good afternoon, Madam Chair and  
17 Board members. What I'll do is just jump into the agenda  
18 item now that you have it in hand and talk about the  
19 edits.

20 Those include the changes that have been made in  
21 the proposed permit, and that is stated on page two.  
22 Staff's recommendation on page three. And on pages four  
23 and five, staff's finding of the proposed permit and the  
24 application package have been updated. Copies are  
25 available on the back table for the public, and the

1 Board's website will also be updated soon.

2 The Orange Avenue Landfill was last permitted in  
3 October, 1998. The facility is owned and operated by the  
4 Orange Avenue Disposal Service, Incorporated.

5 The proposed permit allows for the following.

6 Change the permitted hours of operation to be  
7 consistent with the conditional use permit, thereby  
8 allowing for longer hours of operation.

9 The current hours of operation are Monday  
10 through Friday, 8:00 a.m. to 4:30 p.m. and Saturdays,  
11 8:00 p.m. to 12:00 p.m. The proposed hours of operation  
12 are Monday through Friday, 6:00 a.m. to 6:00 p.m. and  
13 Saturdays, 7:00 a.m. to 5:00 p.m.

14 Board staff have determined that all the  
15 requirements for the proposed permit have been met.

16 In conclusion, staff recommends that the Board  
17 adopt Resolution number 2001-455 concurring in the  
18 issuance of solid waste facilities permit number  
19 10AA-0013.

20 This concludes staff's presentation. Should you  
21 have any questions, Evan Edgar representing Orange Avenue  
22 Disposal and Randy Reyes, the LEA for Fresno County, are  
23 available.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you. Any  
25 questions?

1 BOARD MEMBER PAPARIAN: Yeah, Madam Chair.

2 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

3 BOARD MEMBER PAPARIAN: I noticed that our staff  
4 found the, found a violation during the August 30th  
5 pre-permit inspection, and I gather that since then it's  
6 been corrected?

7 MS. ROSALES: Yes, that is correct.

8 BOARD MEMBER PAPARIAN: My question to our staff  
9 is how come the LEA didn't find this problem? Is it just  
10 happenstance that we were there on the right day or?

11 MS. ROSALES: I'd like to defer that to the  
12 LEA.

13 MR. de BIE: This is Mark de Bie with Permitting  
14 and Inspection. As Randy comes forward, just a little  
15 overview.

16 It's my understanding that the particular well  
17 that was identified as a hot well has a, a uniqueness  
18 about it in terms of its location, but I'll let Randy  
19 expand on that.

20 MR. REYES: Yes, I just want to, like Mr., Mr.  
21 de Bie. had mentioned, where it was located was quite a  
22 ways inside the facility boundary. At the time they  
23 wanted to use that well as per of their perimeter  
24 monitoring network.

25 Gas, there has been gas issues in the past on

1 the north side of this facility. They did take action  
2 upon our notification of them to mitigate by putting the  
3 gas extraction system in there.

4 Gas levels have been well under on their quarter  
5 monitoring that's been taken place, but gradually been  
6 going up because where they're laying their waste now is  
7 in the very north end of the facility as they're getting  
8 close to closure of the facility.

9 Those levels have been gradually going up, and  
10 the last quarter or two we noticed that those levels have  
11 exceeded, and I think the level that we had noted out  
12 during this inspection had just gone above the five  
13 percent.

14 It happened to be that when the state inspector  
15 was there, our inspector was there, we had our monitoring  
16 equipment, and we did question the contractor that's been  
17 hired to do the monitoring, and since then we've, the  
18 last time out we actually went and seen his procedures as  
19 far as what he's doing, and made a few recommendations.  
20 So we are sort of on top of that.

21 We do look at the monitoring, quarterly  
22 monitoring when it comes into our facility. And up to  
23 that point it had been under the five percent.

24 We have, since then I've directed my staff to  
25 make sure that we sort of watched that north end because,

1 and we've sort of told this to the operator too, that in  
2 time we're probably going to see levels to a point that  
3 they're going to probably need to expand their traction  
4 system to probably pull more gas to control it from  
5 leaving the facility boundary.

6 But this is, the levels have been in compliance  
7 up to about maybe the last two inspections.

8 BOARD MEMBER PAPARIAN: Okay. So the thing I  
9 would encourage you is that, is that it puts you in an  
10 embarrassing situation if our staff comes in on a  
11 pre-permit inspection or the eighteen month inspection  
12 and finds something that you haven't seen and, you know,  
13 gas is one of the more significant things that we look  
14 for so --

15 MR. REYES: Yeah, and I realize that. But like  
16 I said, too, I mean one day you can have five percent,  
17 the next day you can have 4.5 depending on the season,  
18 you know, just that's the nature of the beast basically.

19 And the location of this well too is well inside  
20 the perimeter boundary as it is today. But, yeah that's,  
21 again I've sort of, I've got new staff and I've been  
22 training 'em, and that's something, you know, a learning  
23 experience, I guess, at this point.

24 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank you  
25 very much.

1 Mr. Medina.

2 BOARD MEMBER MEDINA: Madam Chair, I'd like to  
3 move Resolution 2001-455, consideration of a revised  
4 solid waste facility permit for Orange Avenue Disposal  
5 Service in Fresno County.

6 BOARD MEMBER JONES: Second.

7 BOARD CHAIR MOULTON-PATTERSON: Okay. We have a  
8 motion by Mr. Medina, seconded by Mr. Jones to approve  
9 Resolution 2001-455 revived -- I need to be revived --  
10 revised, excuse me.

11 Please call the roll.

12 BOARD SECRETARY VILLA: Eaton.

13 BOARD MEMBER EATON: Aye.

14 BOARD SECRETARY VILLA: Jones.

15 BOARD MEMBER JONES: Aye.

16 BOARD SECRETARY VILLA: Medina.

17 BOARD MEMBER MEDINA: Aye.

18 BOARD SECRETARY VILLA: Paparian.

19 BOARD MEMBER PAPARIAN: Aye.

20 BOARD SECRETARY VILLA: Roberti.

21 BOARD MEMBER ROBERTI: Aye.

22 BOARD SECRETARY VILLA: Moulton-Patterson.

23 BOARD CHAIR MOULTON-PATTERSON: Aye.

24 Item number 30.

25 MS. NAUMAN: Item number 30 which you also have



1 a revised agenda item is consideration of a revised solid  
2 waste facility permit for Cal Sierra MRF and transfer  
3 station in Tuolumne County.

4 Virginia Rosales.

5 MS. ROSALES: Again, this is going to seem like  
6 deja vu here, but I'll go through again with the edits  
7 here.

8 And that includes changes in the proposed  
9 permit, and staff's recommendation on page two. And on  
10 page three and four, staff's finding of the proposed  
11 permit and application package have been updated.

12 The Cal Sierra Transfer Station was originally  
13 permitted in June, 1995. The facility is owned and  
14 operated by Cal Sierra, Incorporated, a subsidiary of  
15 Waste Management.

16 The proposed permit allows for the following.

17 Increase the tonnage from 200 tons per day to  
18 350 tons per day.

19 Increase the vehicle count from 250 to 380  
20 vehicles per day.

21 Update the permit requirements to reflect  
22 changes in PRC section 5001.

23 Remove the prohibition in the existing permit  
24 and allow for the crushing of glass.

25 And increase the project site acreage from 3.5

1 acres to 6.2 acres. This change was not identified in  
2 the original agenda item, but it is included in your  
3 revised agenda item on page three.

4 Staff have determined that all the requirements  
5 for the proposed permits have been satisfied.

6 In conclusion, staff recommends the Board adopt  
7 Resolution number 2001-456 concurring in the issuance of  
8 solid waste facilities permit number 55-AA-001.

9 This concludes staff's presentation. James  
10 Briscoe from Cal Sierra and Charlotte Ginn, the LEA, are  
11 here if you have any questions.

12 Do you have any questions?

13 BOARD CHAIR MOULTON-PATTERSON: Thank you. Do  
14 you have any questions?

15 BOARD MEMBER JONES: Madam Chair.

16 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

17 BOARD MEMBER JONES: I think that it's, this is  
18 a good example. The, this facility has never had a  
19 violation of state minimum standards, even when somebody  
20 as goofy as me was running it and built it. But it did  
21 have terms and conditions, because the Board of  
22 Supervisors asked the operators not to shut the gate when  
23 it hit that threshold of cars, and the operator was going  
24 to. It took one or two cars twice, I think, more than  
25 what it was allocated at the permit, because there was

1 nowhere else to go. And that's why we need to have some  
2 flexibility.

3 This is a perfect case. This thing has been in  
4 the hopper for almost a year and a half trying to get a  
5 permit to extend that. And when we built it, we built it  
6 to handle almost five hundred tons of waste, and that's  
7 what went through CEQA.

8 It was just a car count. We didn't have near  
9 that many cars when we built this thing. So to see them  
10 go up against car count, the operator told the county we  
11 couldn't do it, it's going to end up on the side of the  
12 road, which puts the operator in a heck of a position.

13 But they got it worked out where some deliveries  
14 weren't made, it was one or two vehicles of public cars  
15 that went over, but I just think that highlights how  
16 critical some of those things are, especially in rural  
17 California.

18 If there aren't any questions I'd like to move  
19 adoption of Resolution 2001-456 revised, consideration of  
20 a revised solid waste facility permit for the Cal Sierra  
21 MRF Transfer Station in Tuolumne County.

22 BOARD MEMBER MEDINA: I'd like to second that.

23 BOARD CHAIR MOULTON-PATTERSON: Motion by Mr.  
24 Jones, seconded by Mr. Medina to approve Resolution  
25 2001-456 revised.

1           Please call the roll.

2           BOARD SECRETARY VILLA: Eaton.

3           BOARD MEMBER EATON: Aye.

4           BOARD SECRETARY VILLA: Jones.

5           BOARD MEMBER JONES: Aye.

6           BOARD SECRETARY VILLA: Medina.

7           BOARD MEMBER MEDINA: Aye.

8           BOARD SECRETARY VILLA: Paparian.

9           BOARD MEMBER PAPARIAN: Aye.

10          BOARD SECRETARY VILLA: Roberti.

11          BOARD MEMBER ROBERTI: Aye.

12          BOARD SECRETARY VILLA: Moulton-Patterson.

13          BOARD CHAIR MOULTON-PATTERSON: Aye.

14                MS. NAUMAN: Item 31 is consideration of a

15 revised solid waste facility permit for West Miramar

16 Sanitary Landfill. You recall yesterday Bill Prince from

17 the LEA was here yesterday and spoke to this item during

18 public comment.

19                And Tad Gebrehawariat will make the

20 presentation.

21                MR. GEBREHAWARIAT: Good afternoon, Madam Chair

22 and members of the Board.

23                The proposed permit is for an increase in the

24 maximum allowable number of daily vehicles from 1,400 to

25 2,000 as specified by the LEA.

1           As indicated in the table on page 31-4 of the  
2   agenda item, Board staff have determined that most all  
3   the requirements for the revised permit have been met.

4           To just highlight a few.

5           The requirement of the California Environmental  
6   Quality Act or CEQA have been met.

7           The location of the West Miramar Landfill is  
8   identified in the San Diego County siting element, and  
9   therefore the proposed permit is in conformance with the  
10   intent of the county's integrated waste management plan.

11          The design and operation of the landfill were  
12   found to be consistent with the applicable state minimum  
13   standards.

14          However we, as we've also indicated on page 31-5  
15   of the agenda item, Board staff do find that the facility  
16   operation continues to receive daily traffic volumes in  
17   excess of the permitted limits. This is a violation of  
18   the terms and conditions of the permit as required by  
19   Public Resource Code section 44014(b).

20          Staff are of the opinion that Board concurrence  
21   with the proposed permit and its subsequent issuance by  
22   the LEA will correct this outstanding violation.

23          In conclusion, staff recommend that the Board  
24   adopt solid waste facility permit decision number  
25   2001-453 concurring with the issuance of solid waste

1 facility permit number 37-AA-0020.

2 This concludes staff presentation.

3 BOARD CHAIR MOULTON-PATTERSON: Thank you.

4 Questions on number 31?

5 BOARD MEMBER JONES: Madam Chair.

6 BOARD CHAIR MOULTON-PATTERSON: Yes.

7 BOARD MEMBER JONES: I'll move adoption of  
8 Resolution 2001-453, consideration of a revised solid  
9 waste facility permit for the West Miramar Landfill in  
10 San Diego County.

11 BOARD MEMBER MEDINA: Second.

12 BOARD CHAIR MOULTON-PATTERSON: Okay. We have a  
13 motion by Mr. Jones, seconded by Mr. Medina to approve  
14 resolution 2001-453.

15 Please call the roll.

16 BOARD SECRETARY VILLA: Eaton.

17 BOARD MEMBER EATON: Aye.

18 BOARD SECRETARY VILLA: Jones.

19 BOARD MEMBER JONES: Aye.

20 BOARD SECRETARY VILLA: Medina.

21 BOARD MEMBER MEDINA: Aye.

22 BOARD SECRETARY VILLA: Paparian.

23 BOARD MEMBER PAPARIAN: Aye.

24 BOARD SECRETARY VILLA: Roberti.

25 BOARD MEMBER ROBERTI: Aye.

1 BOARD SECRETARY VILLA: Moulton-Patterson.

2 BOARD CHAIR MOULTON-PATTERSON: Aye. Number 32  
3 was pulled and a time waiver was agreed to, is that  
4 right?

5 MS. NAUMAN: That's correct.

6 BOARD CHAIR MOULTON-PATTERSON: That brings us  
7 to number 33.

8 MS. NAUMAN: Item 33 is also a revised item  
9 which I believe you have.

10 This is a report to the board on enforcement  
11 orders that have been issued by local enforcement  
12 agencies during the past four months. This is an  
13 informational item that you have requested we begin  
14 providing to you on a regular basis.

15 And Mark de Bie will make the presentation.

16 MR. de BIE: Thank you, Julie. Mark de Bie with  
17 Permitting and Inspection.

18 And as Julie noted, this is the first time that  
19 we're bringing an item like this to the Board per your  
20 request. The request was one of several that you made  
21 during the discussions and debate relative to action on  
22 the recent emergency regulations relative to granting  
23 exception to terms and conditions when there's an  
24 unforeseen circumstance.

25 During that discussion the Board indicated that

1 they would like to see enforcement orders issued by LEAs  
2 be brought forward in a report.

3 So staff have compiled orders that were issued  
4 since that discussion, so approximately four months ago,  
5 going back four months, and have identified eleven orders  
6 that were issued by LEAs since late August to just  
7 recently, in fact, part of the revised item that you  
8 should have includes an order that was just recently  
9 issued by Riverside County.

10 Staff have included a summary of each of the  
11 orders describing dates issued and the reason for issuing  
12 it, indicating any particular unique information about  
13 each order, and then also indicating when we would expect  
14 to hear back from the LEA relative to the status of the  
15 compliance order.

16 This is reflective of a new requirement put out  
17 in the enforcement regulations that now requires the LEA  
18 to provide the Board with a status report thirty days  
19 after the final compliance date of the order.

20 If I could just highlight a couple of the orders  
21 in there. Because one of the things that staff found in  
22 putting this order together was that there seems to be  
23 some general confusion about some of the more subtle  
24 aspects of notice and orders, both on LEA and Board  
25 staff. And there's a couple of these that reflect that



1 aspect.

2           And I'm highlighting these not to put a  
3 spotlight on the particular LEA, but just to indicate  
4 that there needs to be a little bit more firming up on  
5 people's understanding relative to enforcement orders,  
6 especially now that there are basically three tools  
7 available to LEAs to address issues at a solid waste  
8 facility; the traditional tool of notice and order; the  
9 emergency waiver tool that's been in regulations since  
10 '97; and now with the emergency regs, the, the policy  
11 formally known as PEP incorporated into regulation.

12           So with those three tools, some of them seem  
13 very similar to the others. And as indicated in my first  
14 example, and that's the one from San Diego County and  
15 city, the Sycamore Landfill EDCO Disposal and Recovery  
16 Order as well as the order from San Diego County that was  
17 issued to various MRFs and transfer stations as well as  
18 landfills.

19           What seems to have occurred here is, as a result  
20 of the situation in September, the West Miramar landfill  
21 closed down because of the federally declared emergency,  
22 and so operators in the surrounding area request some  
23 leniency on their terms and conditions to deal with the  
24 waste stream.

25           The LEA ended up issuing, well ended up granting

1     waivers to the various entities, but then put it more or  
2     less in the format of a notice and order. So they kind  
3     of created a hybrid mechanism here. They cited the  
4     emergency waiver regulations, but then named the document  
5     a notice and order.

6             So when staff received that, initially we  
7     treated it as a notice and order. In subsequent  
8     discussions with the LEA, it comes out their intent was  
9     to invoke the emergency waiver regulations.

10            The problem is that a notice and order carries a  
11    set of baggage with it; a set of requirements, noticing  
12    requirements, reporting requirements. And the emergency  
13    waiver regulations bring with it a whole other set of  
14    noticing and reporting requirements.

15            So I think both Board staff and the LEAs  
16    involved are much more clear on what's necessary to  
17    address these kinds of situations and I'd see that, or I  
18    foresee that this situation will probably not occur  
19    again.

20            The other item I wanted to highlight is that  
21    there were a couple notice and orders issued by Monterey  
22    County LEA as well as Sacramento County LEA where the  
23    specific requirement, new requirement as of May that the  
24    notice and order itself contain a notice to the operator  
25    of their right to appeal to a hearing panel had not

1 actually been included in the notice and order.

2 Sacramento County has indicated that it's been  
3 their practice in the past to attach a separate piece of  
4 paper to the notice and order that contains that actual  
5 notice, and not have it as a part of the notice and  
6 order.

7 And Monterey County, in discussions with them I  
8 believe had indicated that as it was a new requirement  
9 and they were utilizing past practices, they didn't catch  
10 that nuance change and having that included in the actual  
11 order.

12 So those were just a couple that I want to  
13 highlight. And I'm looking at them as, by shining a  
14 brighter light on these notice and orders, both Board  
15 staff and LEAs are becoming more aware of what these  
16 requirements are and the subtleties associated with them,  
17 and the interplay between the various tools.

18 And so I would expect we'll see some  
19 improvement, both from Board staff and LEAs and their  
20 review and implementation of these notice and orders.

21 So I'd like to seek guidance from the Board on  
22 whether or not they would like to continue hearing  
23 reports such as this in the future; and, if so, if they  
24 would like to see it formatted differently or contain  
25 different information, or what their pleasure is relative

1 to this.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you very  
3 much, Mr. De Bie.

4 Speaking for myself, yes, I'd like to see 'em  
5 and I think they're fine.

6 Mr. Paparian.

7 BOARD MEMBER PAPARIAN: Yeah. It was very  
8 useful to me, and I appreciate the effort that went into  
9 putting this together. And the format seemed fine with  
10 me.

11 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

12 BOARD MEMBER MEDINA: I would also like to  
13 continue to see these analyses, they are very helpful.

14 MR. de BIE: It's Board's thought that perhaps  
15 we could put this on sort of a quarterly schedule, so  
16 every three or four months we could collect all of the  
17 notice and orders and bring 'em forward like this.

18 BOARD CHAIR MOULTON-PATTERSON: That would be  
19 great. Okay. We're going to be taking a ten minute  
20 break for our court reporter, and then we'll come back  
21 with 34.

22 Unless there's objections, it's my intent to not  
23 do 35 and 37, they're discussion items, we can do 'em at  
24 our briefing day, December 5th, unless there's any  
25 objections.

1                   Or Ms. Nauman, is there any reason that we would  
2   have to do that today?

3                   MS. NAUMAN: No, Madam Chair. I passed out some  
4   additional information to supplement item 35 that the  
5   Board can look at at their leisure.

6                   BOARD CHAIR MOULTON-PATTERSON: Okay. So we'll  
7   be back in ten minutes and do number 34.

8                   (Thereupon there was a brief recess.)

9                   BOARD CHAIR MOULTON-PATTERSON: I'd like to  
10   call the meeting back to order.

11                  Mr. Eaton, do you have any ex-partes?

12                  BOARD MEMBER EATON: None to report, thank you.

13                  BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

14                  BOARD MEMBER MEDINA: None to report.

15                  BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

16                  BOARD MEMBER PAPARIAN: None.

17                  BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.

18                  BOARD MEMBER ROBERTI: No.

19                  BOARD CHAIR MOULTON-PATTERSON: I have none.

20                  Mr. Jones.

21                  BOARD MEMBER JONES: None.

22                  BOARD CHAIR MOULTON-PATTERSON: Thank you. Item  
23   number 34.

24                  MS. NAUMAN: Thank you. Item 34 is  
25   consideration of approval to formally notice proposed

1 regulations for construction demolition debris and inert  
2 waste transfer and processing facilities and operations.

3 And I'm looking for Allison Reynolds. There she  
4 is. Allison Reynolds will make that presentation.

5 MS. REYNOLDS: Good afternoon, Madam Chair and  
6 Board members. My name is Allison Reynolds of the  
7 Permitting and Inspection Branch.

8 The purpose of this item is to bring forward for  
9 consideration by the Board approval to notice the  
10 proposed regulations for construction and demolition and  
11 inert debris transfer processing operations and  
12 facilities.

13 In December, 2000, the Board approved a two  
14 phase regulatory development split for construction  
15 demolition and inert debris.

16 Phase one of this process addresses transfer and  
17 processing facilities and operations, and phase two will  
18 address disposal facilities.

19 Public Resources Code sections 40191 and 49503  
20 establish that construction and demolition debris and  
21 solid waste.

22 In revising the draft regulations from their  
23 last incarnation, Board staff met with stakeholders  
24 during two workshops in September.

25 While staff met with local enforcement agency

1 representatives during the October and November  
2 roundtables, their input and that of Board staff have  
3 resulted in the many changes as outlined in the draft  
4 regulations presented here today and as noted in the  
5 agenda item.

6           Staff recognizes that many stakeholders have  
7 only viewed the draft regulations as late as last  
8 Thursday. Attendees that could be located via the  
9 workshop sign-in sheets, and other interested parties  
10 that requested notifications were e-mailed these draft  
11 regulations early Thursday afternoon.

12           The draft regulations were also posted on the  
13 Board's website last Thursday to assist stakeholders in  
14 their review of the draft regulations.

15           Staff will schedule an early to mid-December  
16 workshop to gather input on this latest draft version of  
17 the regulations, and take the opportunity to discuss more  
18 fully these changes in the draft regulations.

19           Phase two of the regulations will also be  
20 discussed at the workshop.

21           At the September workshop, staff aimed to  
22 streamline the draft regulations, and match them more  
23 closely to the transfer processing operations and  
24 facilities regulations as directed to by the Board, and  
25 incorporate the environmental considerations that Board

1 staff and LEAs have based on real case examples in  
2 California.

3 Although there were many changes in this draft  
4 version of the regulations, staff brings forward to the  
5 Board four of the more significant issues.

6 Number one is the application of hard test in  
7 the commingling of C and D material. Staff borrowed the  
8 term "separated at the point of generation" from the  
9 proposed compostable materials regulations to address  
10 commingled recyclables.

11 Requiring a separation of material at the source  
12 will require more up-front work for demolition crews.  
13 These crews will now have to deposit the material into  
14 separate containers for transport to the construction and  
15 demolition and inert debris recycling center which would  
16 be excluded under the proposed regulations.

17 Sites that would accept commingled C and D  
18 debris, these are materials which arrive intermingled  
19 with other materials, these will be regulated under these  
20 proposed regulations as CDI operations and facilities.

21 The second issue is the regulation of chipping  
22 and grinding of C and D lumber and wood material for  
23 consistency with the proposed compostable materials  
24 regulations.

25 These chipping and grinding operations were not



1 addressed in the old version of the draft regulations  
2 because the compostable materials regulations were not  
3 written at the time.

4 Board staff believe that these activities should  
5 have Board oversight. However, C and D chipping and  
6 grinding operations should have a lesser degree of Board  
7 oversight due to the dry nature of the lumber and wood  
8 debris. And to this aim, staff have removed land  
9 clearing from the C and D definition to prevent a  
10 potential loophole for introduction of decompostable  
11 material which should be regulated using the compostable  
12 materials regulations.

13 Board staff also did not place a limitation on  
14 the tons per day that could be received within the EA  
15 notification tier for this activity, and the tonnage  
16 received can be in addition to the tons per day that the  
17 CDI operation is held to under the operation of facility  
18 agreement with the LEA.

19 However, these operations will need to comply  
20 with the state minimum standards for operations.

21 Issue number three. Addition of the third part  
22 putrescible test for all recycling centers, operations,  
23 and facilities. This was added for consistency with  
24 other regulatory packages.

25 And lastly, staff have set storage limits for

1 recycling centers, extended processing and storage for  
2 inert materials, and have provided longer processing and  
3 storage limits for C and D chipping and grinding  
4 operations than what is directed in the compostable  
5 materials proposed regulations.

6           These storage limits were set to avoid the  
7 accumulation of material which contribute to the creation  
8 of nuisances, fires, and illegal disposal. In fact,  
9 several C and D and inert sites have been cleaned up  
10 using 2136 funds or 2136 technical expertise.

11           Now I'd like to bring to the Board's attention  
12 three factors in these draft regulations that may bring  
13 some sites operating as C and D recycling centers into  
14 the permit tier requirements.

15           These are the commingling of C and D debris;  
16 chipping and grinding of lumber and wood materials; and  
17 the storage requirements.

18           Staff believe that approximately seventeen  
19 recycling centers across California may be affected by  
20 the proposed regulations.

21           Some other changes that staff have made to the  
22 draft regulations since the agenda item were written are  
23 amendments to the authority and scope section --

24           BOARD CHAIR MOULTON-PATTERSON: Technical  
25 difficulties.

1 Ruben? Excuse me.

2 Thank you.

3 Sorry, Ms. Reynolds.

4 MS. REYNOLDS: Some other changes that staff  
5 have made to the draft regulations since the agenda item  
6 were written are:

7 Amendments to the authority and scope section.

8 A purpose section addition.

9 The deletion of the disposal definition.

10 The deletion of land clearing from the  
11 construction demolition definition.

12 And amendment of the inert debris definition to  
13 remove wood ash.

14 And addition of an approval of alternatives  
15 section that gives the LEAs authority to extend material  
16 storage limits that do not increase potential to the  
17 public health, safety, and the environment.

18 Change the putrescible percentage from the  
19 agenda item back to one percent.

20 And lastly, at the request of the Department of  
21 Transportation, staff added to the excluded activities,  
22 road building and associated activities of federal,  
23 state, and local public work agencies.

24 Now I'd like to show the Board and the audience  
25 photographs taken at some processing sites in California,

1 and outline the tiering process that would apply to these  
2 sites.

3 Staff thanks the operators of these sites for  
4 allowing these photographs to be taken, and would like to  
5 state that these photographs are used only as examples of  
6 different types of solid waste handling, and thereafter  
7 the specific sites will not be identified.

8 This appears to be source separated commingled C  
9 and D materials that consist of lumber, metal, and some  
10 plastic material. Depending on the tonnage accepted per  
11 day, this would be a CDI, that's construction, demolition  
12 and inert, CDI operation or facility that must process  
13 the material within ninety days, and can store the  
14 processed material for up to one year.

15 This is also commingled C and D debris with  
16 lumber, rock, soil, and some plastics. This site too  
17 could be a CDI operation or facility.

18 BOARD MEMBER ROBERTI: Could be a what?

19 MS. REYNOLDS: CDI operation or facility;  
20 construction, demolition, and inert.

21 This site accepts commingled textiles, lumber,  
22 mattresses, couches, plastics, and other mixed debris.  
23 This site may source separate to a small extent, but they  
24 would not pass the ten percent residual requirement and  
25 the two part test.

1                   This is a solid waste transfer station and not a  
2   CDI operation or facility.

3                   BOARD MEMBER JONES:   Can I ask a question, Madam  
4   Chair?

5                   BOARD CHAIR MOULTON-PATTERSON:   Mr. Jones.

6                   BOARD MEMBER JONES:   Does that one go under the  
7   title now C and D recycling facility?

8                   MS. REYNOLDS:   No.

9                   BOARD MEMBER JONES:   What's it called?

10                  MS. REYNOLDS:   That last line.

11                  BOARD MEMBER JONES:   Right.

12                  MS. REYNOLDS:   It's actually a solid waste  
13   transfer station.

14                  BOARD MEMBER JONES:   And it's permitted as one?

15                  MS. REYNOLDS:   Actually I'm not sure which site  
16   this is.   I went through some old photographs.   Yes,  
17   actually the operator does consider that a transfer  
18   station, I recall which site it is.

19                  BOARD MEMBER JONES:   But it's not permitted?

20                  MS. REYNOLDS:   It is permitted now.

21                  BOARD CHAIR MOULTON-PATTERSON:   Senator Roberti.

22                  BOARD MEMBER ROBERTI:   What was the distinction  
23   between that and a CDI facility?

24                  MS. REYNOLDS:   This site has some source  
25   separation of solid waste, but it fails the two part

1 test; the first part being source separation and  
2 separated for use, and second would be the ten percent  
3 residual.

4 BOARD MEMBER ROBERTI: What part does it fail?

5 MS. REYNOLDS: It would fail the residual, and  
6 it may even fail the first part too for source  
7 separation.

8 BOARD MEMBER ROBERTI: So that site probably has  
9 more than ten percent residual?

10 MS. REYNOLDS: I would say so.

11 BOARD MEMBER ROBERTI: Therefore it is, we call  
12 it a solid waste transfer station?

13 MS. REYNOLDS: Solid waste transfer station.  
14 This is just for example so you can see the cross-section  
15 of facilities.

16 This site accepts source separated commingled C  
17 and D debris on a large scale and would be a CDI  
18 facility.

19 This site accepts source separated C and D  
20 lumber for chipping and grinding, and this would be a CDI  
21 operation.

22 This chipping and grinding operation has  
23 exceeded their storage limits of ninety days for  
24 processed material and would be considered to be illegal  
25 disposal. It came to Board staff's attention that this

1 site did catch fire.

2 BOARD MEMBER ROBERTI: What kind of disposal  
3 was that? It's a little bit difficult hearing you.

4 MS. REYNOLDS: Oh, illegal disposal.

5 BOARD MEMBER ROBERTI: Illegal.

6 MS. REYNOLDS: This would be an inert debris  
7 recycling center with source separated material and less  
8 than ten percent residual.

9 This site too would be an inert debris recycling  
10 center.

11 This site can be an inert debris recycling  
12 center if it meets the storage requirements of ninety  
13 days for unprocessed material, and one year for processed  
14 material.

15 That's it. Are there any questions regarding  
16 this information?

17 BOARD CHAIR MOULTON-PATTERSON: Questions?

18 BOARD MEMBER PAPARIAN: Just a quick one. The  
19 draft that we have in front of us, I understand that it  
20 was released last Thursday. Was there a draft prior to  
21 that that was similar to it that people have in their  
22 hands, or is this the first time that people have seen  
23 something coming close to this?

24 MS. REYNOLDS: This had quite a few changes from  
25 the last version that was in the last fifteen day comment

1 period several years ago. It's quite a bit different  
2 than that.

3 BOARD MEMBER PAPARIAN: Okay.

4 MS. NAUMAN: But this was, there was a version  
5 that you took to the workshops?

6 MS. REYNOLDS: Yes.

7 MS. NAUMAN: So there has been a working draft  
8 out for some time, and then the draft that was released  
9 on Thursday is the latest product of this informal  
10 process.

11 BOARD MEMBER PAPARIAN: And I guess what I'm  
12 getting at is is this a little bit different from the  
13 version people saw at the workshops or a lot?

14 MS. REYNOLDS: It's quite a bit different  
15 actually.

16 BOARD MEMBER PAPARIAN: Okay. Thank you.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you. We  
18 have a number of speakers and I know some of them have  
19 been waiting all day and so we are anxious to hear you.  
20 I would ask that you be as concise as possible because  
21 there's quite a few.

22 We'll start with Paul Ryan, followed by Patrick  
23 Munoz.

24 MR. RYAN: Honorable Chair and Board members, my  
25 name is Paul Ryan, I'm representing both the north and



1 south CRRC or the California Refuse Removal Council at  
2 the request of the, our president David Farrian.

3 The California Refuse Removal Council is  
4 requesting that this item be continued to give its  
5 members an opportunity to review it and assess the  
6 proposed phase one C and D regulations and their impacts  
7 on diversion.

8 The Board members did not, our Board members did  
9 not receive a copy of the proposed regulations until late  
10 Thursday afternoon, and it was distributed to the general  
11 membership on Friday morning. This has not given us an  
12 opportunity to carefully review the regulations -- I'll  
13 just go ahead and speak while the tap dancing is  
14 occurring.

15 This did not give us, give our members time to  
16 review the regulations. Further, that our Board is  
17 concerned that some of the provisions of the regulations  
18 will have a detrimental impact on jurisdiction's  
19 diversion activities.

20 As noted in the proposed regulations, we have  
21 some concerns about the storage time for certain types of  
22 material types. As you noticed in your slides and so  
23 forth, there are certain types of materials that  
24 historically have been stored beyond a year's time after  
25 they've been processed.

1           At the earlier testimony at the workshops, I did  
2   note that I had served Riverside County as a Flight  
3   Control Commissioner for a number of years, and it was  
4   quite a routine to stockpile materials for rip rap and  
5   also levies and other things. And the things that are  
6   being proposed here in the regulations do not seem to  
7   exempt that.

8           In addition, as the chairman of the planning  
9   commission in the City of Norco, I can assure you that we  
10  go through the development process with a number of  
11  developers. We live in an area where there's demolition  
12  and reconstruction as housing projects and other projects  
13  occur, and we've been allowing the developers to bring  
14  their equipment on site and process the material to add  
15  into the development, and this goes on for maybe two or  
16  more years until the development is finished. Often  
17  we'll have phasing of housing projects where several  
18  hundred houses are phased in over a period of time.

19           I'm requesting that you give us time to look at  
20  this regulation so that we can adequately assess their  
21  impacts, because we think that if you are too restrictive  
22  on the stockpiling of certain type of materials, that  
23  will have a negative or chilling impact on diversion  
24  activities.

25           And also, I disagree with staff in terms of the

1 number of facilities out there. I've been working with a  
2 number of jurisdictions in Southern California, and I  
3 think we can all attest that it's far more than  
4 seventeen.

5 With that, we need some time to look at this so  
6 that we can figure out what's going on and what really is  
7 happening. Because if we proceed too fast, I'm afraid  
8 this is one of those kind of regulations that may not  
9 help diversion, but go the other way if everything winds  
10 up turning into disposal.

11 With that, thank you very much.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
13 Ryan. I had a quick question for you, and I apologize  
14 for the technical difficulties.

15 If the Board did decide to continue this to  
16 December, do you think that it could be worked out by  
17 then? Because this has gone on a long time.

18 MR. RYAN: Oh, I understand. But one of the  
19 unfortunate things is that there's not been enough  
20 dialogue between the staff and the stakeholders on this  
21 particular issue.

22 A number of people, particularly at Diamond Bar,  
23 testified and noted to staff that there were some  
24 problems with the proposed regulations at that time and  
25 they haven't been fixed.

1               So to answer your question, within, if you  
2   release the regulations today, I'm not sure if we can  
3   come back within the 45 day period with the answers that  
4   all of us are seeking in terms of getting reasonable  
5   regulations that work for everybody.

6               BOARD CHAIR MOULTON-PATTERSON: Okay. Thank  
7   you, Mr. Ryan.

8               Patrick Munoz, followed by Kathy Brandenburg.

9               MR. MUNOZ: Good afternoon.

10              BOARD CHAIR MOULTON-PATTERSON: Good afternoon.

11              MR. MUNOZ: I appreciate the time that you're  
12   putting into this issue, and I'd like to just echo the  
13   last speaker's comments and start with the question you  
14   asked.

15              I think staff was being extremely candid with  
16   you when they pointed out that there are quite a few  
17   differences between what we're looking at today and what  
18   we looked at at the time of the workshops. And I would  
19   go further to say it looks like nothing like anything we  
20   have ever seen before.

21              All of the major substantive issues have been  
22   changed. Different policy direction has been adopted on  
23   each of the major substantive points.

24              The Board directed staff to go back and meet  
25   with the interested parties, the stakeholders we're

1 calling them, and that did occur. It was a very  
2 meaningful meeting, I came up to Sacramento, it was kind  
3 of fun, I hadn't been here before, enjoyed that, had a  
4 good meeting, a very productive meeting with staff on a  
5 set of regulations that, from my client's perspective,  
6 and by the way I'm here on behalf of Madison Materials  
7 which is a new and C and D, would have been recycling  
8 center I think under the old language I'll call it, what  
9 I looked at at the time.

10 We felt as though there was a few minor tweaks  
11 that were needed on a couple of the substantive areas to  
12 really be in a position to have some meaningful  
13 regulations.

14 But we're starting from scratch now. And I  
15 don't think it's realistic to try and bring this back in  
16 December and have something that's meaningful and that  
17 will work; although, you know, we certainly don't have  
18 any interest in delaying unnecessarily, it's just a  
19 matter of how quickly things can occur.

20 You know, and I don't want to go through each  
21 and every one of the substantive issues that I came up  
22 with when I read through the regulations that we saw, but  
23 there are a couple of major points that I'd like to at  
24 least touch on to kind of have the Board at least  
25 somewhat in tune with what my client's concerns are, and

1 I think what the concerns of the industry in general  
2 would be.

3 There's being been a change in the definition, a  
4 very significant change in the definition of what C and D  
5 debris is. You know, interestingly, the staff report  
6 indicates that the intent was to clarify that soil and  
7 that type of inert material was not being regulated, and  
8 that was part of the intent.

9 Well in the old definition, what we had back in  
10 September, it was pretty clear it wasn't being regulated.  
11 In this brand new definition we got on Thursday it  
12 explicitly is regulated, it is now defined as C and D  
13 debris.

14 So if a contractor is out digging a hole for  
15 trenching, all of the sudden a question comes up, are we  
16 creating C and D material? It's just dirt. We're really  
17 stepping into the construction industry as opposed to  
18 regulating the recycling industry with the new language.

19 More concerning is that the new definition I  
20 think has the impact of decreasing the amount of  
21 recycling that would occur, decreasing opportunities.

22 The old, I'll call it, definition had a formula  
23 to determine whether material was C and D based on the  
24 percentage that was mixed in with other solid waste or  
25 recycled materials.

1           Under the new definition, because of the  
2     requirements that materials be source separated or  
3     separated for reuse in order to even be defined as  
4     recycled or as C and D debris, I think that you're  
5     actually decreasing the amount of material that would  
6     qualify for recycling.

7           That becomes particularly important when you  
8     start looking at recycling centers as opposed to  
9     facilities or operations. There is now a policy decision  
10    from staff apparently that everything that goes into a  
11    recycling center must be source separated at the site of,  
12    or at the point of generation. And that obviates the  
13    needs for a recycling center which is in the business of  
14    bringing in mixed loads of C and D waste and separating  
15    it out into reusable commodities that can then be sold or  
16    recycled. It's just not going to happen on site, and  
17    that's a pretty significant issue.

18           The definitions of disposal, of what is disposal  
19    has been deleted completely. Now we have some storage  
20    requirements put in with each of the different tiers.  
21    And one of the very significant issues I think is that  
22    storage issue.

23           There are a lot of cities out there that have  
24    specifically permitted facilities, I'll call them the  
25    generic, including my clients. There are no limitations

1 in the city's mind on how long material can be stored.  
2 We're talking about facilities, businesses that have gone  
3 through extensive discretionary review processes in  
4 cities that really put people through the wringers,  
5 including environmental review processes which have taken  
6 into account all kinds of mitigation measures to deal  
7 with the issues that staff is addressing.

8 Things like vector control. Well local agencies  
9 are in charge of vector control, and as part of the  
10 discretionary review process, the local agencies have  
11 considered that and taken that into account.

12 We'd like to see language that does not put  
13 limits on storage times in the event that a local agency  
14 has approved specifically storage of material on site and  
15 adopted mitigation measures for that purpose.

16 BOARD MEMBER JONES: Can I ask a question, Madam  
17 Chair?

18 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

19 BOARD MEMBER JONES: I'm getting a little  
20 confused. You said that our staff had changed policy by  
21 saying that material has to be source separated to go  
22 into a facility?

23 MR. MUNOZ: No, what I said was that there was a  
24 policy change in the language. For a recycling center  
25 before, the policy in the language was that if a material



1 had a ten percent residual, that that would be the  
2 demarcation of what a recycling center was.

3 BOARD MEMBER JONES: It's a two part test?

4 MR. MUNOZ: Correct.

5 BOARD MEMBER JONES: It said it either comes in  
6 source separated, or there is ten percent residual. The  
7 problem with C and D is that when you get loads of C and  
8 D, the weight is so big, so out of proportion to what  
9 that residual waste should be, could be, that you could  
10 operate a transfer station.

11 So I guess I need to know a little bit more  
12 about what you're saying, because it almost sounds like  
13 the definition that you're at odds with our staff with  
14 may be exactly the definition that this Board prescribed.

15 MR. MUNOZ: Well I guess what I'm saying is  
16 simply this. There have been significant changes on  
17 these issues. We haven't really had adequate time to  
18 really go through the new definitions, analyze them and  
19 think 'em through, and really even formalize a position.

20 I'm just pointing out that there are significant  
21 changes in the policy behind the regulations from what we  
22 saw previously and what we're seeing now.

23 BOARD MEMBER JONES: Okay. It's just that some  
24 of the arguments you were making were the same arguments  
25 when we developed the transfer station regs, and that's,

1 I just didn't want to go back five years.

2 MR. MUNOZ: I didn't mean to come across as if I  
3 was advocating particular arguments on that subject.

4 BOARD MEMBER JONES: Right.

5 MR. MUNOZ: I'm just pointing out that there are  
6 significant differences. We have to look at it and see  
7 if the impact is something that makes it impossible for,  
8 you know, the literally millions of dollars we've  
9 invested to suddenly be for naught, or if we're able to  
10 move forward.

11 So we're generally concerned about that.

12 BOARD MEMBER JONES: Thank you.

13 MR. MUNOZ: Thank you.

14 BOARD CHAIR MOULTON-PATTERSON: Thank you.

15 BOARD MEMBER PAPARIAN: Madam Chair.

16 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

17 BOARD MEMBER PAPARIAN: There's two, there's two  
18 issues that seem to be coming up; one is the substance of  
19 what's in the regulations, and the second is the timing,  
20 whether people have enough time to absorb, analyze, and  
21 review and comment on the proposed regulations.

22 BOARD CHAIR MOULTON-PATTERSON: Right.

23 BOARD MEMBER PAPARIAN: I'm wondering if staff  
24 can tell us, when would, if we went forward with this  
25 today, when would they actually hit the street, start the

1 45 day clock? Would it be like this week, or would it  
2 be, when would it happen?

3 MS. NAUMAN: It would actually probably be a  
4 couple of months from now, and Mark can correct me if I'm  
5 wrong, but it does take us some time to put the actual  
6 package together and then get that released for the 45  
7 day. So it's not as if the clock starts tonight or  
8 tomorrow.

9 So, and let me just explain to you, the reason  
10 that we're bringing this forward is many months ago we  
11 came forward here with a plan for the development of this  
12 regulation package that the Board has indicated to us is  
13 a very high priority, and we know we've got legislation  
14 out there that has some sunset clauses in it that we're  
15 trying to deal with.

16 So staff is purposefully bringing this item  
17 forward to you now, recognizing that the draft hasn't  
18 been out that long, but trying to stay with this very  
19 aggressive schedule.

20 So, you know, we defer to your judgment on this,  
21 but if we delay, you know, another month or two, the  
22 practical result is we're going to start delaying phase  
23 two of this reg package, which is the, really the more  
24 difficult, cumbersome, complex part of this package, and  
25 that's the whole issue of disposal.

1               So if we, you know, if we don't get through  
2   phase one until January or February, then we're going to  
3   be pushing ourselves probably back into late next summer  
4   before we're really dealing with phase two.

5               BOARD MEMBER PAPARIAN: Just so I'm clear  
6   though, the 45 day clock, from what you said, wouldn't  
7   start until after the first of the year?

8               MS. NAUMAN: Approximately. Mark.

9               MR. de BIE: The schedule that the Board  
10   reviewed and approved indicates that the 45 day notice  
11   would occur in January, 2002. That's because of staff  
12   resources, the time it takes to put the file together,  
13   and go through, get the fiscal impact, get agency review  
14   on it, etcetera, it takes a couple months to put all that  
15   together.

16              So certainly during that time, you know, there  
17   could be stakeholder input and review, and they can  
18   formalize their positions; then the 45 day comment period  
19   would start in January, run for 45 days; and then we'd  
20   bring the item back soon after to the Board.

21              BOARD MEMBER PAPARIAN: Okay. Thank you.

22              BOARD CHAIR MOULTON-PATTERSON: Thank you.

23              Kathy Brandenburg followed by Charles Rea.

24              MS. BRANDENBURG: My name is Kathy Brandenburg  
25   and I'm with the Flanigan Law Firm, we represent the

1 Institute of Scrap Recycling Industries, commonly known  
2 as the old line recyclers.

3 And I'm in support, probably in the minority of  
4 this group, in support of these regulations and  
5 continuing with the 45 day comment period.

6 I did have one question and Allison has cleared  
7 it up. In the type B inert debris definition it does  
8 list auto shredder waste, and that's where it caught my  
9 attention, because usually scrap metal recyclers, you  
10 know, we're excluded from the Board's jurisdiction.

11 And Allison did reassure me that the auto  
12 shredder waste is only if it's taken to a C and D  
13 recycling center would it be regulated under your  
14 jurisdiction.

15 So she clarified that for me and we're in  
16 support.

17 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank you  
18 very much.

19 Charles Rea followed by Jeff Boreston.

20 MR. REA: Thank you, Charlie Rea with the  
21 Construction Materials Association.

22 BOARD CHAIR MOULTON-PATTERSON: Excuse me, how  
23 do you pronounce it?

24 MR. REA: Rea.

25 BOARD CHAIR MOULTON-PATTERSON: Rea, okay.

1                   MR. REA: Construction Materials Association of  
2 California. We're a trade association for aggregate  
3 producers in Northern California. Aggregate producers of  
4 rock, sand, and gravel products.

5                   Currently just about every aggregate producer  
6 now has a recycling operation where they recycle road  
7 materials, sidewalks, concrete and asphalt. It  
8 represents about ten to fifteen percent of total  
9 aggregates now are from recycled products, and it's a big  
10 benefit to us. It helps save the natural resource. It's  
11 a scarce resource, difficult to permit. In some areas of  
12 the state we're running out so we really depend on the  
13 recycled product.

14                  The way we do this recycling is that the  
15 concrete and asphalt rubble is brought on site, it's  
16 piled up, and then a crusher is brought in to recycle it.

17                  And it may, may be that it takes, you have to  
18 wait until it's economical to recycle it, until the  
19 market conditions are correct. Depending on where you  
20 are, it may take you six months, it may take you two  
21 years, it may take longer to build up that pile to a  
22 point where it's economically feasible to crush it.

23                  In the big urban areas that's going to happen  
24 much faster than it is in a Chico or Yuba City or Modesto  
25 or Santa Maria.

1           So that is our concern with this proposal today  
2   is that it has the storage limits on it of ninety days.  
3   Really for most, just about everyone I've talked to,  
4   they, it's a much longer period of time that it takes to  
5   stockpile that material before it's ready to recycle.

6           Definitely a lot of concern about this, and that  
7   it could inhibit recycling.

8           I think that would be our main request if  
9   there's some way to address that issue of the disposal  
10  limits -- or storage limits.

11           BOARD MEMBER JONES: Question, Madam Chair.

12           BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

13           BOARD MEMBER JONES: Most of these, most of  
14  those operations that have included recycled content are  
15  at active aggregate facilities, correct?

16           MR. REA: Yeah.

17           BOARD MEMBER JONES: The same with, the same  
18  issue is going to come up with landfills, it's stockpiled  
19  material until they can get enough in there to bring in a  
20  crusher.

21           Maybe if we made a determination that it was an  
22  inactive, an inactive -- see, they tell us to turn off  
23  the phones, we break our own rules.

24           Maybe something along the lines that if it was  
25  an inactive aggregate facility, maybe if we carved out

1 some of those facilities, Madam Chair, that might have  
2 big ongoing operation.

3 Our fear as you all know, you've been part of  
4 this for a long time, is the stockpiles that get walked  
5 away from. And there's plenty of 'em there and we've had  
6 to pay for 'em.

7 And we know that's not your issue, so maybe  
8 that's something we need to look at in describing the  
9 types of facilities.

10 MR. REA: Yeah, you're right. They all take  
11 place on aggregate or mine sites or industrially zoned  
12 areas.

13 BOARD MEMBER JONES: Well the industrially zoned  
14 may be a problem because it's where they leave all this  
15 other stuff.

16 BOARD CHAIR MOULTON-PATTERSON: Thank you. Jeff  
17 Boreston followed by Karen Coca.

18 MR. BORESTON: Good afternoon. I admire your  
19 concentration and endurance at these meetings.

20 My name is Jeff Boreston, I'm with Granite  
21 Construction Company, we're a civil engineering  
22 contractor. We're also a large materials producer, and a  
23 very significant recycler of asphalt and concrete which  
24 would be considered type A inert debris under this  
25 regulation.



1           And my comments are focused on this issue that  
2   you've already heard on is the storage of these materials  
3   and when does storage become disposal. And we've had  
4   some dialogue with staff, and we appreciate that dialogue  
5   and look forward to it continuing. But this is a very  
6   critical issue for us, and we felt it was important, we  
7   were here today to have our position known.

8           The way we do business is we accumulate material  
9   over a period of time until we have enough material to  
10   make it economical to process it. That could be several  
11   months. It could, in rural areas it could be three  
12   years.

13          Defining disposal after a ninety day storage  
14   period for unprocessed material would turn many of our  
15   operations into disposal facilities. And we're a  
16   manufacturer, we're a contractor, we're not a disposal  
17   company. And this would create a disincentive to recycle  
18   these materials.

19          The disposal triggers a whole nother set of  
20   regulations which fall under the solid waste disposal  
21   facilities. That in itself at some of our facilities may  
22   make it too troublesome or too expensive to continue  
23   accepting recyclable materials. So therein lies the  
24   disincentive.

25          Tying disposal to a storage period is really an

1 arbitrary standard. It shouldn't make a difference  
2 whether you have a 50,000 stockpile that you turn over  
3 every three months, or a 50,000 ton stockpile that you  
4 turn over every three years, you still have a 50,000  
5 stockpile on site.

6 And in fact, there's an argument to be made that  
7 the stockpile that's turned over less frequency has less  
8 of an environmental impact because there's less dust,  
9 less noise, less traffic.

10 I think there's a real danger entering into  
11 black and white state regulations, an arbitrary standard  
12 that says disposal of concrete and aggregate happens  
13 after storing it for ninety days.

14 As such, we're opposed to approving this  
15 regulation for initiating the formal public notice  
16 procedures. And we think more time is needed to work  
17 with staff to possibly come out with a better definition  
18 of when disposal occurs.

19 There is a definition in the Public Resource  
20 Code that says disposal is the final disposition.  
21 Disposal shouldn't be, storage should not become disposal  
22 after a ninety day period.

23 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank  
24 you.

25 MR. BORESTON: Thank you.

1               BOARD CHAIR MOULTON-PATTERSON: We still have  
2 speakers, I do have a question of Ms. Tobias.

3               If we go out for the 45 days which would start  
4 in January, be 45 days from sometime in January, and then  
5 if we felt things hadn't been worked out, would we have,  
6 would we be allowed or be able legally to continue it?

7               LEGAL COUNSEL TOBIAS: Yes. You could go back  
8 out for a fifteen day review if there were small changes.  
9 You could have staff work on it and go back out for a  
10 longer review if you felt that it was, that it had so  
11 changed that it needed more time and input.

12              BOARD CHAIR MOULTON-PATTERSON: Okay. Thank  
13 you.

14              Karen Coca, the City of Los Angeles, followed by  
15 Chris Trott or Trott, I can't tell if the two T's are  
16 crossed or not.

17              MS. COCA: Good afternoon, Madam Chair, members  
18 of the Board. I'll be brief.

19              I think the previous speaker and Paul Ryan  
20 pretty eloquently described some of the issues; most  
21 notably the short timeframe to measure the impacts of the  
22 proposed regulations.

23              The City of Los Angeles would like to request  
24 that we have the time to work with staff and not have to  
25 officially comment upon the proposed regulations as they

1 stand.

2 I currently have staff working on a report  
3 that's going to compile a list of facilities that will  
4 include impacts on tonnages, costs.

5 We're going to survey our C and D recyclers to  
6 see if they can afford to stay in business under the new  
7 regulations which would, from my reading, treat any mixed  
8 C and D debris facility that takes over a hundred tons  
9 per day the same as a solid waste transfer station. So  
10 that would require solid waste facilities permits for  
11 many of the facilities that currently operate within the  
12 City of Los Angeles.

13 So I'd like to ask for your consideration on  
14 that. Thank you.

15 BOARD CHAIR MOULTON-PATTERSON: Thank you.  
16 Charles Trott.

17 MR. TROTT: Chris Trott.

18 BOARD CHAIR MOULTON-PATTERSON: Chris, excuse  
19 me.

20 MR. TROTT: You had that right, it's two T's at  
21 the end.

22 BOARD CHAIR MOULTON-PATTERSON: Okay.

23 MR TROTT: Thank you, Madam Chair and members  
24 of the Board.

25 I guess I am in the minority as well, I

1 represent Covanta Energy and also the California Biomass  
2 Energy Alliance, and we support the regulations as  
3 written, and also support them going out for 45 day  
4 review.

5 We appreciate very much how staff has taken into  
6 account our concerns and addressed them in the  
7 regulation, particularly the concerns we had about lead  
8 painted wood and CCA pressure treated wood. The load  
9 checking program and prohibition of this, use of this  
10 material as biomass energy feedstock.

11 We're very concerned about the increased  
12 presence of particularly CCA pressure treated wood.  
13 Here's a piece right here today that I collected at  
14 Sacramento's own Kiefer Road Landfill in a load of  
15 construction debris that a homeowner brought in. There  
16 was probably, I don't know, it was probably half the load  
17 was pressure treated wood.

18 And as we've all read lately, and it's coming  
19 under increasing concern, there is very high levels of  
20 arsenic in this material that creates a large public  
21 health hazard. And we have seen test results that say  
22 that ash from this piece of wood contains up to 118,000  
23 parts per million of arsenic. So we just don't want this  
24 in our facilities, and we appreciate it being addressed.  
25 And that's, we'll be submitting more detailed comments.

1                   Thank you.

2                   BOARD CHAIR MOULTON-PATTERSON: Thank you. Last  
3 speaker is Joan Edwards.

4                   MS. EDWARDS: Thank you. I share the view of  
5 those who are concerned about you distributing these  
6 comments starting the 45 day period.

7                   I can appreciate your desire, especially given  
8 issues that had to do with inert disposal facilities and  
9 your desire to get on to part two, and the fact that this  
10 has been going on for a long time.

11                  But I too was at the Diamond Bar meeting, and  
12 these are not only phenomenally different regulations  
13 from what we saw in Diamond Bar, but I believe that the  
14 regulations will create problems for much of the  
15 recycling goals that the Board has.

16                  And I think that the current draft continue to  
17 reflect one of the biggest concerns expressed in Diamond  
18 Bar, which is that the staff does not seem to understand  
19 fully current C and D practices for recycling or  
20 disposal, or that type of never-never world processing  
21 that goes on at the contractor's yard, or the practices  
22 that occur with inerts in the natural process of a  
23 construction or demolition job.

24                  I want to just point, so my primary concern is I  
25 can appreciate the temptation to send it out today and

1 say, "Well, we could do fifteen days or we could do 45  
2 days down the line," but I think that it is unfair to the  
3 stakeholders to not allow them to discuss these issues in  
4 depth with staff before you send it out. Especially  
5 since I know for myself it is true that in that one year  
6 period between the last regs and these, many of us called  
7 frequently to the Board to ask staff where are the regs?  
8 We want to talk about the issues. Please come out and  
9 visit sites. And nothing went on. It's not, it's not  
10 the stakeholder fault that these regs have not moved  
11 forward.

12 I want to point to a couple of examples of  
13 things that I'm concerned about. I, too, agree far more  
14 than seventeen facilities will be affected. I'd like to  
15 see the list. I think it has to do with our definition  
16 of facility.

17 What is an inert processing facility? I asked  
18 that question in Diamond Bar, I've asked it a few times.  
19 I noticed there was no example up there of an inert  
20 processing facility. How can we develop regs for an  
21 inert processing facility if staff has never seen one and  
22 does not know what one is? Now perhaps they have an  
23 answer now, they didn't in Diamond Bar, and I did  
24 particularly notice that there was no example up there.

25 The commingling issue is a big new issue. And

1 it is true that we've had the two part test separating  
2 for reuse and source separation. But the issue of  
3 commingling has always been something that many parties  
4 have ignored in the past several years. It's like nobody  
5 wants to touch it.

6 What does commingling really mean if you're  
7 going to allow it to continue to be called a recycling  
8 facility? And all of the sudden it gets dropped into the  
9 C and D regs for a C and D recycling facility when, in  
10 fact, we may be talking about materials that are dry and  
11 less problematic than the bottles and cans as  
12 putrescibles that everybody accepts as okay. So I see  
13 that as a major change that at least ought to be talked  
14 out.

15 Maybe the Board would believe that a small  
16 contractor should not be allowed to combine metal and  
17 wood in one bin, even though they're dry and a hundred  
18 percent recyclable when they get it to a facility, and  
19 that that facility really should be regulated with full C  
20 and D permit. I'm not sure I agree.

21 I certainly think it will increase the cost, but  
22 at least these are issues that we ought to talk about.  
23 It is a big surprise to see the commingling issue all of  
24 the sudden come up, and come up in the context of C and  
25 D.



1                   And just to point out another way that these  
2   regs, I think, differ from the reality of what goes on  
3   out there. I think it is incredible that these same regs  
4   that have so many changes continue to say, hey, totally  
5   exempt all cannery waste if you source, if they're spread  
6   out on the land.

7                   We just heard about ash being problematic, but  
8   these regs say you can disperse ash on the land if it's  
9   source separated, and they're exempt from all  
10  regulations.

11                  We have things that are exempt that are far more  
12  problematic than some of the issues that are being  
13  discussed.

14                  I'm not going to, I do have a number of other  
15  comments, I'm only going to mention one other. And that  
16  is I continue to have concerns about the definitions of  
17  inert debris.

18                  I think that there has to be some more, more of  
19  a middle ground in terms of when is inert debris  
20  something that ought to be regulated, and when is it  
21  okay?

22                  And I would really like to see, I did say this  
23  at Diamond Bar, some other people said it as well, I'd  
24  like to see an A, B, and C definition of inerts; with the  
25  A removing some of those materials that, such as mine

1 tailing, some of the things that are considered part of  
2 the good inerts. I'd like to see them taken out so that  
3 there was an inert category that was nothing more than  
4 concrete, asphalt, and dirt; something that we could  
5 better come together perhaps and compromise on having a  
6 lesser regulatory impact.

7 Thank you.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you. That  
9 was our last speaker.

10 Mr. Jones.

11 BOARD MEMBER JONES: Madam Chair, I think that  
12 I've heard two, maybe three people talk about the  
13 commingled issue. The commingled issue is paramount, I  
14 mean it's been part of our discussions at, for the  
15 transfer station regs; it was part of our discussions in  
16 the formulation of the C and D regs; there was a whole  
17 industry out there that was operating under the guise of  
18 recycling center, recycling facilities that were actually  
19 full-blown solid waste facilities. And we dealt with  
20 that, and they were at the table when we were talking  
21 about, about those issues in the transfer station regs.

22 So I'm surprised that some folks think that  
23 that's new stuff. And I know Joan Edwards doesn't think  
24 it's new, she's just surprised it's in this package. But  
25 if nothing else, it's consistent with our other packages.

1           I'm concerned about a couple of things. One, I  
2 think that some of the issues that got brought up were  
3 clearly, as I read it, staff was following the Board's  
4 direction and the stakeholders have a different view, and  
5 that creates a problem for the stakeholders. But, you  
6 know, that's why this process goes the way it goes.

7           My concern is, and I wish this was on another  
8 month's agenda, but if we were to open the 45 day clock,  
9 let's say in thirty days or whatever that time is, are we  
10 allowed, if the Board instructs the staff to have two  
11 more workshops or how, whatever mechanism you and the  
12 executive director think is appropriate, to get their  
13 input to work out the issues on the deal with the  
14 granites and those folks, okay, and really in the  
15 landfills too on their, on their stockpiling of some of  
16 that material where they bring in a grinder every once in  
17 a while.

18           I was okay with everything that he was saying  
19 until he got to "or industrially zoned," and that's where  
20 it stops. And he, and it's not because of their  
21 operations, it's because that's where these other people  
22 operate and leave, and we go in with 2136 money to clean  
23 up.

24           So my question would be, if we were to start the  
25 clock in thirty days, asking staff to have these two or

1 four or however more meetings you need to have with  
2 staff, understanding that the holidays are next week and  
3 it's going to be tough, is there a likelihood that we  
4 could try to put something like that together?

5 MS. NAUMAN: Mr. Jones, certainly we can have  
6 more workshops, even during a 45 day comment period. I  
7 know we've had some workshops before in other packages  
8 when we're in a review period. So we can do that.

9 I do have to point out, though, that obviously  
10 there is a resource impact to doing that, and that will  
11 delay our staff's ability to begin focusing on phase two.

12 So with that understood.

13 BOARD MEMBER JONES: That I understand, but the  
14 problem is I don't want to go to phase two until we get,  
15 until we're sure we are comfortable with phase one. And  
16 I think even at the briefing you had said you were a  
17 little nervous about the timing of this.

18 MS. NAUMAN: Well I wanted to be --

19 BOARD MEMBER JONES: And you gave the Board an  
20 out, you said, you know, if you need to delay thirty  
21 days --

22 MS. NAUMAN: Right.

23 BOARD MEMBER JONES: -- delay thirty days.

24 MS. NAUMAN: We can.

25 BOARD MEMBER JONES: I don't want to delay just

1 for the sake of delay.

2 I guess what I'm asking you is if we delay  
3 thirty days, knowing that Thanksgiving is next week, is  
4 there the ability to continue to work with the  
5 stakeholders in that thirty days to try to answer  
6 questions or fashion, to give them enough time so that  
7 they've at least reviewed it to a fuller extent than they  
8 would have been afforded with this last four days?

9 MS. NAUMAN: We can do thirty days and then you  
10 can act on the 45, or you can act on the 45 now knowing  
11 that it won't go out to notice until January, and in the  
12 interim we can have some more dialogue.

13 BOARD MEMBER JONES: Okay. So we could say put  
14 it out.

15 MS. NAUMAN: Right, either way.

16 BOARD MEMBER JONES: Put it out, in thirty days  
17 put it out for 45 day comment, after you've had some  
18 meetings, we can say that?

19 MS. NAUMAN: Well it doesn't exactly work that  
20 way. Because if you give us the okay to go out to 45  
21 days, as I indicated, as a practical matter it's going to  
22 be more than thirty days before we're able to pull the  
23 package together to go out.

24 BOARD MEMBER JONES: Right. And I guess what  
25 I'm saying is I would like to see if we could

1 accommodate, because of that shortness of time,  
2 everybody's ability to read these and make comments.

3 One of the problems with the comment period is  
4 that you write the comments, and then it's kind of up to  
5 everybody if you take 'em or if you don't take 'em.

6 So there may be some major issues here that have  
7 arisen since this thing got put out on the street. I  
8 have to tell you the truth, I read it, I saw a few  
9 changes, but I'm not, I don't have a high sense of  
10 heartburn here.

11 But I just, I'm trying to fashion a, some kind  
12 of a way that these folks are sure that they can get  
13 their comments in prior to the 45 day clock, and that  
14 their comments will be either taken or not taken. And  
15 then you can start the clock without having to come back  
16 to this Board.

17 I don't know if that's even, I don't even know  
18 if that's legal, you know.

19 MS. NAUMAN: What we're just conferring with  
20 here is just, bear with me as we work through this. If  
21 we continued the dialogue with the stakeholders, and we  
22 envision, and that leads to some changes in the reg  
23 package, the question is whether we should come back to  
24 the Board to have you then say that's the package we want  
25 to go out for 45 days; as opposed to another option of

1 saying go forward, make those changes, and whatever you  
2 decide to put out, put it out but don't put it out any  
3 earlier than January 24th.

4 BOARD MEMBER JONES: All right. If we, if I  
5 said hold 'em for thirty days and we, and you had to  
6 make, if I asked you to continue this item for thirty  
7 days and not set up a new agenda item, and that would  
8 give the industry, the stakeholders, local government the  
9 chance to get their stuff done, they could get that back  
10 to you; our next Board meeting is December 12th or 13th  
11 or 15th or something.

12 MS. NAUMAN: It's early, yeah, it's the 11th,  
13 12th.

14 BOARD MEMBER JONES: 11th, 12th in San  
15 Francisco. Would that give folks the time that, to at  
16 least make comments to staff. Get it out until December,  
17 and then we'll continue the item, hear what kind of input  
18 has come in, what you've said, get us a copy of the  
19 changes, and then we can act, we can continue this for 45  
20 days?

21 MS. NAUMAN: Yeah, I would suggest that given  
22 that the December Board meeting is early, that we go  
23 ahead and put a title in for December; in the meantime  
24 we'll work with the stakeholders to see what we can  
25 accomplish between now and your Board meeting, and then

1     come forward and say we think we've got a package that  
2     we're ready to go out for 45 days, Board, please give us  
3     that direction at your December meeting. Or we may  
4     determine that we're still not ready.

5             BOARD CHAIR MOULTON-PATTERSON: I would feel  
6     more comfortable with that. Just Thursday was so late  
7     and, you know, and I certainly don't blame staff because  
8     we've been pushing you on this.

9             MS. NAUMAN: Right.

10            BOARD CHAIR MOULTON-PATTERSON: But just, I want  
11    the public to have as much review as possible.

12            MS. NAUMAN: That's fine.

13            BOARD CHAIR MOULTON-PATTERSON: But I haven't  
14    heard from my other Board members, and I feel terrible.  
15    We have, could you be real brief, Stephen Bantillo from  
16    the City of San Jose, it was handed to me right as we  
17    closed.

18            MR. BANTILLO: Madam Chair, thank you for  
19    squeezing me in at the last moment here.

20            The City of San Jose has a construction and  
21    demolition recycling program for which we rely heavily on  
22    the 22 facilities that we have certified that recover at  
23    least 50 percent of the C and D materials they receive.  
24    And I was reading the regulations and thinking of the  
25    impact that they would have on our facilities when a part



1 of the program, our city council asked me, in developing  
2 the program, would our generators have a problem finding  
3 facilities to take the materials to, and I assured them  
4 that they wouldn't.

5 And hearing the gentleman from Granite  
6 Construction come up, it became very clear to me that we  
7 could potentially have a problem. They are one of our  
8 certified facilities.

9 Considering the regs and the issue on storage  
10 versus disposal, we could potentially lose maybe a third  
11 of the facilities that we have certified. So the regs as  
12 they stand could have an impact on our generators in San  
13 Jose and their ability to recycle the material as well as  
14 our ability to hang onto the certified recovery  
15 facilities.

16 Thank you.

17 BOARD MEMBER JONES: Madam Chair, can I ask a  
18 question?

19 BOARD CHAIR MOULTON-PATTERSON: Thank you.

20 BOARD MEMBER JONES: Sir from San Jose. I'm  
21 sorry, I didn't hear the name.

22 But would you have enough time between now and  
23 December 13th to get us those comments so that you saw  
24 the impacts at San Jose or what that -- would you be able  
25 to comment in this time period?

1 MR. BANTILLO: Yes.

2 BOARD MEMBER JONES: Yes.

3 BOARD CHAIR MOULTON-PATTERSON: Okay. What's  
4 the pleasure of the Board on this?

5 Mr. Jones.

6 BOARD MEMBER JONES: Madam Chair, I'd like us to  
7 either put in another title or continue this till  
8 December. Have staff, you've heard it, take the  
9 comments, do what you can.

10 MS. NAUMAN: We'll do what we can.

11 BOARD MEMBER JONES: We're going to disagree on  
12 some, I mean some stakeholders aren't going to get what  
13 they want. I would like you to look at these location  
14 issues. There may be a way to help a lot of that. And  
15 then bring it back in December and we'll, for  
16 consideration for the 45 days. Is that reasonable?

17 BOARD CHAIR MOULTON-PATTERSON: Yes, thank you.

18 BOARD MEMBER MEDINA: I would support that,  
19 Madam Chair.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
21 Medina.

22 BOARD MEMBER MEDINA: Also I'm concerned that  
23 with, for some of the comments that I heard that what was  
24 discussed at the workshop and what some of the people  
25 that spoke today said they read in the regs was totally

1 different.

2 BOARD MEMBER JONES: I was at that workshop in  
3 Diamond Bar, that's why I don't have heartburn with these  
4 regs. We had disagreement within the room, Board Member  
5 Medina, but because somebody says it and staff doesn't  
6 take it -- because somebody says it and staff doesn't  
7 take it doesn't mean they didn't hear. They heard, they  
8 just opted not to take it.

9 BOARD MEMBER MEDINA: I just heard more than one  
10 person say that and so I just wanted to make certain that  
11 we take it into account.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.  
13 Medina.

14 MS. NAUMAN: Madam Chair, then we will continue  
15 this item and it will come up under old business at the  
16 December meeting.

17 And we respectfully request that any  
18 stakeholders who do have comments, would they please  
19 submit them to staff in writing as expediently as  
20 possible?

21 BOARD CHAIR MOULTON-PATTERSON: Yes, please do.

22 BOARD MEMBER ROBERTI: Madam Chair.

23 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.

24 BOARD MEMBER ROBERTI: Just one item. I would  
25 like staff to also give us a review of options on the

1 amount of time to keep concrete, to keep concrete on  
2 site, on storage as part of the regs.

3 MR. de BIE: Senator, I think what we might, if  
4 I may ask those individuals that made those comments, is  
5 perhaps they, in their written comments to us in this  
6 informal period, could suggest alternative ways of  
7 avoiding the potential problems that staff could foresee  
8 with long term storage, other ways of evaluating it,  
9 size, you know, other features.

10 So any ideas of how to address that other than  
11 time would be appreciated.

12 BOARD MEMBER ROBERTI: Thanks.

13 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank  
14 you.

15 Item 35, the discussion and presentation of the  
16 closed, illegal, and abandoned site program will be  
17 discussed at the briefing on December 5th.

18 Item 36 was adopted on consent.

19 Item 37, the discussion we'll also hear on  
20 December 5th.

21 That brings us to item number 38.

22 MS. NAUMAN: Thank you. Item 38 is  
23 consideration of approval of contractors for the  
24 environmental services contracts for landfill and  
25 disposal site remediation for fiscal year 2000-2001,

1 contract numbers IWM-C0106A and IWM-C0106B.

2 And Wes Mindermann will make the presentation.

3 MR. MINDERMAN: Thank you, Madam Chair and  
4 members of the Board. I'll try to be as concise as  
5 possible here.

6 In administering the solid waste disposal and  
7 co-disposal site cleanup program, the Board is authorized  
8 to expend funds directly for cleanup.

9 The program has utilized environmental services  
10 contractors to perform Board managed remediation since  
11 its inception in 1994, and currently accomplishes these  
12 projects through the use of two contractors, Irv Guinn  
13 Construction Company and Sukut Construction Company.

14 The program typically has two companies under  
15 contract to ensure availability of equipment and labor to  
16 respond in a timely manner to Board approved projects  
17 anywhere in the state.

18 This item requests the Board consider and  
19 approve contractors for two environmental services  
20 contracts for landfill and disposal site remediations  
21 throughout the state.

22 The table on page two of your agenda item  
23 summarizes environmental services contractors used under  
24 the program to date. While the expiration date of the  
25 contracts are noted in the table, I want to note that the

1 duration of these contracts have typically ranged from  
2 twelve to 48 months.

3 The RFQ process seeks to determine the best  
4 qualified firm for the anticipated scope of work.

5 Selection of the contractor is based on the  
6 professional qualifications necessary to satisfactorily  
7 perform the services at a fair and reasonable price.

8 And this is an important note that I just want  
9 to kind of elaborate on here. As I often point out to  
10 our contractor and program staff out on the job sites,  
11 that they actually represent the Board out there. Nobody  
12 cares who the contractor is or who the program staff  
13 working on the project are, what really matters is that  
14 they represent the Integrated Waste Management Board, and  
15 it's the Integrated Waste Management Board funding and  
16 completing the project.

17 The request for qualifications process used for  
18 these contracts is in accordance with the established  
19 process and consisted of the following:

20 A total of eight statements of qualifications  
21 were submitted in response to the request for  
22 qualifications, and were deemed complete by the Board's  
23 contract office.

24 The eight eligible statements of qualifications  
25 were scored and ranked using Board approved selection

1 criteria and weightings by a panel composed of three  
2 members of Board staff, one member from the State Water  
3 Resources Control Board, and one member from a local  
4 enforcement agency.

5 The panel interviewed the top four ranked  
6 companies. Interviewees were evaluated, scored, and  
7 ranked utilizing the same selection criteria that the  
8 Board had approved.

9 Board staff were then able to successfully  
10 negotiate agreements with the top two ranked companies,  
11 Irv Guinn Construction Company and A.J. Diani  
12 Construction Company, Incorporated.

13 And the Board has two options with this agenda  
14 item.

15 One, to approve the recommended contractors.

16 Or two, to disapprove the recommended  
17 contractors.

18 Board staff recommend that the Board adopt  
19 Resolution number 2001-451 approving Irv Guinn  
20 Construction Company, Incorporated, and A.J. Diani  
21 Construction Company, Incorporated for environmental  
22 services contracts for a not to exceed amount of two and  
23 a half million dollars, with initial funding proposed at  
24 \$1,500,000 for each contract from previously appropriated  
25 funds in the solid waste disposal site cleanup trust

1 fund.

2 And before I conclude I just want to take a  
3 moment. I want to thank the Board's legal office, the  
4 Board's contracts office, and the members of the  
5 selection committee for their support in this request for  
6 qualifications.

7 Thank you.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you.

9 BOARD MEMBER JONES: Madam Chair.

10 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

11 BOARD MEMBER JONES: Good job on the 2136  
12 program. Hopefully we'll just keep doing that work.

13 MR. MINDERMANN: Thank you.

14 BOARD MEMBER JONES: Guinn has had history, the  
15 other, Beany, is new, or Beno or whoever it is.

16 MR. MINDERMANN: That's A.J. Diani.

17 BOARD MEMBER JONES: Diani. You do your normal  
18 kind of keeping track of these guys, make sure they live  
19 up to the kind of work that you want?

20 MR. MINDERMANN: We will do our best to track  
21 the contractors through the standard that we think the  
22 Integrated Waste Management Board wants on their  
23 projects.

24 BOARD MEMBER JONES: Great. Madam Chair.

25 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.



1               BOARD MEMBER JONES: I would like to move  
2 adoption of Resolution 2001-451, consideration of  
3 approval of contractors for the environmental services  
4 contract for the landfill disposal site remediation  
5 fiscal year 00/01, contract IWM-C0106A and IWM-C0106B  
6 awarded to Guinn and whoever, Deno, Beno -- I can't hear  
7 you up here.

8               BOARD CHAIR MOULTON-PATTERSON: Okay. I'll  
9 second that. Motion to approve Resolution 2001-451 by  
10 Mr. Jones, seconded by Moulton-Patterson.

11              Please call the roll.

12              BOARD SECRETARY VILLA: Eaton.

13              BOARD MEMBER EATON: Aye.

14              BOARD SECRETARY VILLA: Jones.

15              BOARD MEMBER JONES: Aye.

16              BOARD SECRETARY VILLA: Medina.

17              BOARD MEMBER MEDINA: Aye.

18              BOARD SECRETARY VILLA: Paparian.

19              BOARD MEMBER PAPARIAN: Aye.

20              BOARD SECRETARY VILLA: Roberti.

21              BOARD MEMBER ROBERTI: Aye.

22              BOARD SECRETARY VILLA: Moulton-Patterson.

23              BOARD CHAIR MOULTON-PATTERSON: Aye.

24              Item 39.

25              MS. NAUMAN: Item 39 is the presentation and

1 discussion of the proposed work plan for the alternative  
2 daily cover work group.

3 Scott Walker will make the presentation.

4 MR. WALKER: The Board directed last month that  
5 staff prepare an item with a work plan on the alternative  
6 daily cover work group, and a couple of key elements of  
7 the Board's direction includes:

8 Number one, consensus is not required.

9 Number two, that no issues were considered off  
10 limits, but that anything related to legislation would be  
11 tabled for separate work group discussion.

12 And the third is that staff bring back the  
13 synthesis of the work group with options to the February  
14 Board meeting.

15 And then the fourth was that Southern California  
16 venues are required.

17 The plan that staff have put forward is  
18 essentially to use a facilitated workshop format, a  
19 little bit different than what we originally envisioned.  
20 Essentially, somewhat similar to the conversion  
21 technologies forum, we would use a, we would staff and  
22 facilitate separate break-out groups representative of  
23 the various interests for issue identification and  
24 problem solving sessions.

25 At the end there would be, if necessary, a

1 discussion of legislation as directed by the Board.

2           We planned two equivalent sessions, one in  
3 Southern California and the other in Sacramento. They're  
4 basically going to be the same format. They would be the  
5 same format so that the work group volunteers don't have  
6 to go to each one, they could go to one in Southern  
7 California so that they don't have to travel to Northern  
8 California, and the one in Northern California, the ones  
9 in Northern California could go to and they don't have to  
10 go down, so it would significantly reduce the travel  
11 burdens on the stakeholders.

12           And we did suggest that we try to do it the  
13 third week in December, but I wanted to point out to the  
14 Board that we're getting significant concerns from the  
15 stakeholders and that we, now we envision it will  
16 probably be the second or the third week in January where  
17 we'd have both sessions.

18           Currently we have 51 volunteers that had  
19 originally volunteered to be a part of this. And there's  
20 a really good spread of stakeholder groups based on, you  
21 know, the landfill and other industries and then the  
22 recycling industries. We've got a good core group of  
23 environmental groups. And so it's a good broad spread  
24 and range that we will, that core will be hopefully part  
25 of these sessions.

1           So that essentially, and again, remind the Board  
2   there's three core areas of ADC issues, one is state  
3   minimum standards and the LEA advisory.

4           The second is disposal reporting system and  
5   impacts to jurisdictions.

6           And the third is market impacts.

7           Very briefly I wanted to just give you an update  
8   on the Board. The Board in July had specific resolutions  
9   of facilities in question that had problems with ADC  
10   reporting and concerns about over use.

11          There were seven, the two inert facilities were  
12   addressed, and then there were some additional  
13   facilities, four of which were believed to be  
14   misreporting.

15          The remaining three were concerns about  
16   overuse. And I wanted to just let the Board know that we  
17   have resolved basically all but two of the misreporting  
18   cases, and we anticipate that the reports, L.A. County  
19   will come in within the next couple of weeks, and then we  
20   have the two additional sites that we anticipate coming  
21   before the Board in December to get some consideration of  
22   their reporting.

23          And these are the two San Bernardino County  
24   sites that are, they were reported to the Board last  
25   month, they have a high percentage of their disposal

1     tonnage, their reporting of ADC, they believe it's right,  
2     and this is something that staff now are planning to  
3     bring before the Board in December to consider.

4             The reporting has, we're getting a better handle  
5     on the reporting. We're down to, we used to be at 4.3  
6     million tons of green waste ADC, and right now it's about  
7     2.9 million tons of green waste ADC. And we anticipate  
8     the misreporting will take it down about another million,  
9     because that has to do with Puente Hills and a lot of the  
10    soil and C and D that they're reporting as green waste  
11    ADC.

12            So that just gives you a real quick snapshot of  
13    where we are on that to make sure that the Board's  
14    compliant, that compliance with the Board's resolutions  
15    is being dealt with.

16            So in summary, staff has presented this proposed  
17    work group. And are there any questions?

18            BOARD CHAIR MOULTON-PATTERSON: Thank you.

19            Mr. Medina.

20            BOARD MEMBER MEDINA: I have no questions, I  
21    just think the direction being taken by staff is a good  
22    one, I think you should proceed.

23            BOARD CHAIR MOULTON-PATTERSON: Thank you.

24            Item number 40. Our last item.

25            MS. NAUMAN: Our last item, item 40, is

1 consideration of the draft one year report to the State  
2 Auditor. This is our final required report to the State  
3 Auditor on the Board's response and progress in  
4 implementing the recommendations.

5 At the briefing it was noted that on page 40-4  
6 we indicated that the requirements for the report really  
7 are the same as the requirements for previous reports,  
8 which include a timetable, identification of responsible  
9 parties, and copies of documents.

10 For this one year report we have, we are  
11 planning to do a larger submittal. I passed out to you a  
12 chart that looks like this that we're intending to attach  
13 to the draft that you have in the item and this would,  
14 and while within the draft there are references to  
15 timelines and implementation dates, this chart acts as  
16 kind of the summary of the audit.

17 BOARD MEMBER PAPARIAN: Excuse me. Excuse me.  
18 I'm not sure I have that chart.

19 BOARD CHAIR MOULTON-PATTERSON: I don't either.

20 MS. NAUMAN: I'm sorry, we handed it out earlier  
21 when you had four items that had revisions, two permits  
22 and I had -- if not, I know there are extra copies in the  
23 back of the room.

24 BOARD CHAIR MOULTON-PATTERSON: Yvonne, maybe  
25 you could get some?

1 MS. NAUMAN: Okay. Sorry for that, I thought  
2 all the copies have been handed out.

3 In any event what this is is just a restatement  
4 of the audit recommendations, the actions that the Board  
5 has taken, and further implementation timeframes.

6 BOARD CHAIR MOULTON-PATTERSON: Thank you.

7 MS. NAUMAN: In addition, I am proposing that we  
8 attach to the report and this timetable some copies of  
9 agenda items that reflect the Board's discussion and  
10 actions on the recommendations, and that will constitute  
11 the packet that would be transmitted as our one year  
12 report.

13 BOARD CHAIR MOULTON-PATTERSON: I have a  
14 question. Does the auditor ever acknowledge, you know,  
15 like good job or anything like that? I mean do we hear  
16 back?

17 MS. NAUMAN: I haven't gotten any calls from  
18 them. No, I haven't had any response either to our  
19 thirty day report or our six months report. But we are  
20 fulfilling the requirements to report as requested.

21 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.  
22 Paparian.

23 BOARD MEMBER PAPARIAN: I want to get back to  
24 the item I brought up at the workshop, which was my  
25 understanding was that we were going to go forward with

1 periodic reporting of capacity with all appropriate  
2 caveats and explanations.

3 And if my recollection is correct, I think we  
4 should incorporate that into the item, what is it, one or  
5 two?

6 MS. NAUMAN: Item two is maintaining that  
7 database on capacity. And I indicated at the briefing,  
8 and it's reflected here, that we're planning to report  
9 back to the Board in February. But I can add, "and  
10 periodically thereafter." Are we on the same page on  
11 this?

12 BOARD MEMBER PAPARIAN: Yeah. My understanding  
13 was that, you know, once or twice a year, I don't even  
14 remember what the timeframe was --

15 MS. NAUMAN: Okay.

16 BOARD MEMBER PAPARIAN: -- that from here on the  
17 Board would be getting reports on statewide capacity.

18 MS. NAUMAN: I will add that in. I only had  
19 indicated the initial report back, but I'll add in that  
20 we will do that on a semiannual basis as well.

21 BOARD MEMBER PAPARIAN: Okay. Thank you.

22 MS. NAUMAN: Okay. Thank you for the  
23 clarification.

24 BOARD CHAIR MOULTON-PATTERSON: Any other  
25 comments from Board members?



1                   Okay. I don't think there's any other public  
2    comments in the audience, I don't see any, so that  
3    adjourns our meeting, and so then we'll see you in  
4    December.

5                   (Thereupon the foregoing was concluded at  
6                   5:35 p.m.)

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